JOURNAL
OF
COMPARATIVE LEGISLATION
AND
INTERNATIONAL LAW

EDITED FOR
THE SOCIETY OF COMPARATIVE LEGISLATION
BY
F. M. GOADBY, Esq., D.C.L.

> Let observation, with extensive view,
> Survey mankind from China to Peru.
> SAMUEL JOHNSON.

THIRD SERIES VOL. XXV PARTS I & II

LONDON:
SOCIETY OF COMPARATIVE LEGISLATION
28 ESSEX STREET, LONDON, W.C.2
1943

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All communications to be addressed to the Hon. Editor,
28 Essex Street, London, W.C.2
The Annual Subscription to the Society is one guinea. (Canada and U.S.A. $5.)

For the convenience of binding, the Review of Legislation which normally would have been issued in Volume XXIV is included in Volume XXV

Printed in Great Britain by
Hazell, Watson & Viney, Ltd., London and Aylesbury

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London School of Economics.
London University.
Los Angeles County Law Library (per The Carswell Co., Ltd.).
Los Angeles Public Library (per Moore-Cottrell Subscription Agencies Inc.).

Louisiana State University (per G. E. Stechert & Co.).
Louisiana State University Law Library (per Sweet & Maxwell, Ltd.).
Lucknow University Library (Law Dept.) (per Bowes & Bowes Ltd.).

Macassey, Sir Lynden.
MacGeagh, Sir Henry F.
McGill University Library (per W. H. Smith & Sons, Ltd.).
Macmillan, The Rt. Hon. Lord.
McNair, Professor Sir A. D.
Madras, Advocate-General (per Gordon & Gotch, Ltd.).
Madras, Chief Secretary to Government.
Madras, Connemara Public Library.
Madras, Law College (per Gordon & Gotch, Ltd.).
Madras, Legislative Council Library (per Gordon & Gotch, Ltd.).
Madras, The Presidency College (per Gordon & Gotch, Ltd.).
Madras Advocates Association (per Stevens & Sons, Ltd.).
Malkin, Sir William.
Manchester Incorporated Law Library Society.
Manchester Public Library.
Manchester University.
Manitoba, Law Society (per The Carswell Co., Ltd.).
Manitoba Provincial Library.
Manitoba University (per Wm. Dawson & Sons, Ltd.).
Mann, F. A.
Massachusetts State Library (per F. W. Faxon Co.).
Mauritius Government.
Mauritius Supreme Court Library (per Crown Agents).
Melander, J.
Melbourne Public Library (per Sotheran & Co.).
Melbourne University (per David Nutt).
Meyer, T. U.
Michigan State Library (per The Carswell Co., Ltd.).
Michigan University Law Library.
Michigan University Library (per Sotheran & Co.).
Middle Temple Library (per Butterworth & Co.).
Minnesota State Library (per N. A. Phemister Co.).
Minnesota University Law Library (per Sweet & Maxwell, Ltd.).
Minnesota University Library (per G. E. Stechert & Co.).
Minsk, U.S.S.R., Belorussk. Gos. Juridich. Institut (per Wm. Dawson & Sons, Ltd.).
Missouri University Library (per G. E. Stechert & Co.).
Mitchell Library, Glasgow.
Montreal Bar Library (per The Carswell Co., Ltd.).
Montrose, Professor J. L. (Belfast).
Moore, John Bassett (New York).
Moscow, Fund. Biblioteke O.O.N. Akademii Nauk (per Wm. Dawson & Sons, Ltd.).
Moscow, Otdel Kodifikacü (per Wm. Dawson & Sons, Ltd.).
Moscow, Vsesojusnaja Biblioteka (per Wm. Dawson & Sons, Ltd.).
Mysore, Chief Court.
Mysore General and Revenue Secretariat (per W. H. Smith & Sons, Ltd.).

Nebraska University Library (per Moore-Cottrell Subscription Agencies, Inc.).
Neufeld, Dr. E.
New Guinea, Crown Law Officer.
New South Wales, Attorney-General (per Law Book Co. of Australasia Pty., Ltd.).
New South Wales Parliamentary Library, Sydney (per Gordon & Gotch, Ltd.).
New York Bar Association.
New York Law Institute (per Bankers Trust Co.).
New York Public Library (per Stevens & Brown).
New York State Library (per G. E. Stechert & Co.).
New York University (2) (per G. E. Stechert & Co.).
New Zealand, Department of Labour.
New Zealand, Ministry of Justice. (5)
New Zealand, University College, Auckland (per D. Nutt).

New Zealand General Assembly Library (per Street & Co., Ltd.).
New Zealand Law Society.
Newcastle Protection and Indemnity Association.
Newfoundland, Dept. of Justice (per Crown Agents).
Nigeria, Attorney-General (3) (per Crown Agents).
North of England Protecting and Indemnity Association.
Northern Ireland, Ministry of Finance.
Northern Rhodesia, Attorney-General (per Crown Agents).
Northern Rhodesia, Registrar of High Court (per Crown Agents).
North-Western University Law School.
North-Western University Library (per Stevens & Brown).
Norwegian Ministry of Justice (Miss Scharma) (per J. & E. Bumpus Ltd.).
Nyasaland, Attorney-General (per Crown Agents).
Nyasaland, Registrar, High Court (per Crown Agents).

Ohio State University Library (2) (per G. E. Stechert & Co.).
Ontario, The Hon. the Attorney-General.
Ontario Legislative Library (per Allen & Son, Ltd.).
Oregon Supreme Court Library (per The Carswell Co., Ltd.).
O'Sullivan, Richard.

Palestine, Superintendent of Courts (per Crown Agents).
Parry, Professor D. Hughes.
Patna High Court (per Das Gupta & Co.).
Pennsylvania State Library (per Mutual Subscription Agency).
Peru, Universidad Mayor de San Marcos (per Longmans, Green & Co., Ltd.).
Phemister Co., The N. A. (New York).
Philadelphia Law Association (per Sweet & Maxwell, Ltd.).
Polish Ministry of Justice.
Pollak, W. (Johannesburg) (per Sweet & Maxwell, Ltd.).
Pollard, R. S. W.
Pomona College Library (per F. W. Faxon Co.).
Pretoria University.
Princeton University Library, New Jersey (per F. W. Faxon Co.).
Privy Council Office (per H.M. Stationery Office).
Punjab, Legal Remembrancer (per Wm. Dawson & Sons, Ltd.).
Punjab Legislative Council, Lahore (per Wm. Dawson & Sons, Ltd.).
Pyke, H. Reason.

Quebec, Deputy Attorney-General.
Queensland, Department of Justice.
Queensland, Supreme Court Library (per The Carswell Co., Ltd.).
Queensland University (per B. H. Blackwell, Ltd.).

Ramey, G. (per The British Council).
Reed College Library, Portland, Oregon (per F. W. Faxon Co.).
Reid, The Rt. Hon. J. S. C.
Ripon Law College, Calcutta.
Risley, Sir J. S.
Roberts, Dr. O. W.
Rotwand, J.
Royal Empire Society.
Royal Holloway College (per B. H. Blackwell, Ltd.).
Royal Institute of International Affairs.
Russell Sage Foundation Library (per F. W. Faxon Co.).
Rutgers University Library (per International News Co.).
Ryan, M. J. (Dublin).

St. Lucia, Crown Attorney (per Crown Agents).
St. Vincent, Supreme Court (per Crown Agents).
Samuell, A. L.
San Francisco Law Library (per The Carswell Co., Ltd.).

ANNUAL REPORT, 1941

AGAIN the destruction of the Chambers occupied by the Society has been the principal domestic event of the year. The disaster of 1941 was more serious than that of the previous year as a large part of the Society's records were destroyed as well as some material for publication in the *Review of Legislation* and the *Journal*. In due course the Committee no doubt will receive some compensation for property destroyed in these two attacks. Fortunately a list of subscribers had been made in duplicate, and with the co-operation of the Bank it has been possible to reconstruct the accounts. Owing to the destruction of a large part of the Temple the Society did not feel justified in seeking a share of the small amount of accommodation available for practising members of the Bar. Accordingly the Committee were particularly grateful for the offer by Sir Gerald Chadwyck-Healey of an office in a building alongside the Temple, occupied by Messrs. Morgan Bros. (Publishers), Ltd., at 28, Essex Street. The situation is especially convenient as the Society have always been located in the Inns of Court, and the office still remains within easy access.

The inevitable suspension of the grants by the Inns of Court has had a serious effect upon the finances of the Society. The Committee decided to appeal to the Bar Associations in various parts of the Empire and the United States. The response has been most sympathetic, though some find themselves prevented by their constitutions from making a grant to the work of the Society. While maintaining the annual subscription at the rate of one guinea, the Committee felt justified in asking the payment of five dollars from overseas members in order that discount might be allowed to booksellers acting as their agents, and to cover to some extent the cost of the additional copies required to replace those lost in transit.

The Committee have had pleasure in reviving a body of corresponding members and in welcoming the Director of the American Law Institute as the first to join it.

The Hon. John W. Davis, formerly United States Ambassador at the Court of St. James's, graciously accepted an invitation to become a member of the Council, which lost by death three distinguished judges—Sir J. G. Kotze, Mr. Justice Matthews, and the Hon. Newton W. Rowell.

The accounts show reduced income and expenditure, though the balance is larger than usual as there was one printer's bill less paid in the year. On the whole, having regard to the circumstances of the time, the financial position is healthy. An encouraging feature is that the number of new subscribers is larger than the number of subscriptions discontinued, though the difficult position of so many countries naturally affects the situation adversely. The Committee are satisfied that they are continuing a work essential both for the present and for the future, and the expressions of appreciation which reach them justify the belief that others also recognize the importance of the Society's work at a time when the maintenance of law and order is calling for the fullest efforts of the English-speaking peoples and their Allies.

MACMILLAN.

ANNUAL REPORT, 1942

THE work of the Society during the year 1942 has been continued without disturbance, though under some difficulty. Two numbers of the Society's *Journal* were issued during the year. The publication of the *Review of Legislation* was postponed and will be included as a double number with the *Review* for 1941. By that means an economy of paper will be effected and at the same time the more important part of the legislation rendered necessary by war conditions throughout the Empire will be contained in one issue. The Society were fortunate in possessing at the beginning of the war a supply of paper which has been used with economy, so it is hoped to be able to continue the publications, with the allowance made by the Paper Controller, though upon a reduced scale.

During the year salvage operations at 1, King's Bench Walk reached a stage at which it was possible to ascertain whether anything was still left of the Society's property. From very much damaged books and papers there has been rescued a portion of the set of the Society's *Journal,* which has been made complete with odd numbers available, with the exception of Volume VI (1924), parts II and III. A gift of those numbers from any member of the Society who has them to spare would be much appreciated.

With the generous financial assistance of the Pilgrim Trust the Society were able to arrange a series of lectures, on July 1, 8, 15 and 22, for the information of foreign lawyers in Lincoln's Inn Old Hall as follows:—

Chairman:—The Rt. Hon. S. M. Bruce, C.H., M.C., "The Constitution of the British Commonwealth," by Sir Alison Russell, K.C.

Chairman:—The Rt. Hon. Lord Macmillan, G.C.V.O., "British Legislative Methods," by Sir Cecil T. Carr.

Chairman:—Sir Cecil Hurst, K.C.M.G., "Inns of Court," by C. E. A. Bedwell, Esq.

Chairman:—The Rt. Hon. Lord Atkin, "Courts of Law," by Richard O'Sullivan, Esq., K.C.

Although the attendance was not so large as had been anticipated, gratifying appreciation was expressed by Professor Gerbrandy, the Prime Minister of the Netherlands, and others on behalf of the audiences.

The Committee have had pleasure in welcoming as members of the Council Viscount Bennett, the Chief Justice of the United States, Mr. Justice Harlan Stone, Sir Kenneth Poyser and the Lord Advocate, The Rt. Hon. J. S. C. Reid, K.C., M.P.

The Committee are grateful for the grants which have been received for the continuance of their work, and in particular they appreciate the cordial sympathy of the American and Canadian Bar Associations and also of the Law Societies of New Zealand and Prince Edward Island. The result is that the financial position is fairly satisfactory in spite of the increased cost of the production of the Society's publications. The number of new subscribers still maintains a steady increase and appreciably exceeds the small number of losses by death or withdrawal. Upon the termination of the salvage operations negotiations were begun with the Board of Trade in respect to compensation for the property destroyed in 1, Elm Court and 1, King's Bench Walk.

The Committee much appreciate the many expressions of good will which reach them whereby they are assured that the continuance of the Society's work is an essential undertaking and has a practical value at the present time as well as in its contribution to future developments.

MACMILLAN.

SOCIETY OF COMPARATIVE LEGISLATION

Receipts and Payments Account for Year Ending December 31, 1941

Dr.

	£	s.	d.	£	s.	d.
To Subscriptions :						
General	351	18	0			
Government	133	7	0			
				485	5	0
,, Grants :						
Law Society	21	0	0			
Northern Ireland Inn of Court	5	5	0			
Johannesburg Bar	10	10	0			
Government of Fiji	10	0	0			
Government of Gold Coast	6	0	0			
Government of Mauritius	5	5	0			
Government of Trinidad	5	0	0			
Birmingham Law Society	2	2	0			
C. E. A. Bedwell	2	2	0			
				67	4	0
,, Sale of *Journals*, Back Numbers, Reprints, etc.				67	14	1
,, Sale of 3½% War Loan	206	11	6			
,, Interest (*less* Tax) thereon Year to December 1, 1941	1	15	0			
				208	6	6
,, Subscriptions in arrears paid during 1941				16	16	0
,, Subscriptions in advance paid during 1941				22	16	0
,, Subscriptions for Consolidated Index				14	15	9
,, Sale of "Great Jurists of the World"				2	3	9
,, Cash at January 1, 1941 :						
At Bank	162	8	8			
In Hand	3	0	6½			
				165	9	2½
				£1,050	10	3½

Cr.

	£	s.	d.	£	s.	d.
By Publication of *Journal* :						
Printing—vol. xxii, pt. 4	150	3	6			
vol. xxiii, pt. 1	108	2	8			
Postal Wrappers	6	9	7			
Cover Paper	13	1	3			
Printing of Prospectus	5	4	9			
				283	1	9
,, Salary of Clerk, including Income Tax				156	10	0
,, Rent of Chambers				51	9	2
,, General Expenses, including postage and insurance				51	1	5
,, Stationery				20	0	10
,, Audit of Accounts				3	3	0
,, Office Equipment				35	0	7
,, Purchase of Defence Bonds	200	0	0			
Less Dividends at 3 per cent.	2	1	9			
				197	18	3
,, War Risks Insurance of Stock				5	17	6
,, Micro-Film, vols. i and ii, original series				6	14	5
,, Cash at December 31, 1941 :						
At Bank	236	8	3			
In Hand	3	5	1½			
				239	13	4½
				£1,050	10	3½

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance and also the investment of £200 3% Defence Bonds.

London: 48 Copthall Avenue, E.C. 2

CASH, STONE & CO.

SOCIETY OF COMPARATIVE LEGISLATION

Receipts and Payments Account for the Year ending December 31, 1942

Dr.

	£	s.	d.	£	s.	d.
To Subscriptions :						
General	343	6	0			
Government	108	6	2			
				451	12	2
,, Grants :						
American Bar Association	10	10	0			
Prince Edward Island Law Society	5	5	0			
The Law Society	21	0	0			
G. F. Grigs, Esq.	0	10	6			
Canadian Bar Association	22	11	5			
Gold Coast Government	6	0	0			
New Zealand Law Society	20	0	0			
Fiji Government	10	0	0			
Mauritius Government	5	5	0			
				101	1	11
,, Sale of *Journals*, Back Numbers, Reprints, etc.	20	16	5			
Less Cost of Reprints	10	0	0			
				10	16	5
,, Interest on 3% Defence Bonds				6	0	0
,, Subscriptions in arrears paid during 1942				51	19	8
,, Subscriptions in advance paid during 1942				67	9	4
,, Subscriptions for Consolidated Index				1	11	4
,, Sale of "Great Jurists of the World"				3	10	0
,, Cash at January 1, 1942 :						
At Bank	236	8	3			
In Hand	3	5	1½			
				239	13	4½
				£933	14	2½

Cr.

	£	s.	d.	£	s.	d.
By Publication of *Journal :*						
Printing—vol. xxiii, pts. 2 and 3	209	16	10			
vol. xxiii, pt. 4	103	11	5			
vol. xxiv, pt. 1	109	18	3			
				423	6	6
,, Salary of Clerk, including Income Tax				147	3	4
,, Rent of Office				40	0	0
,, General Expenditure				23	9	0½
,, Stationery				6	12	0
,, Audit of Accounts				3	3	0
,, War Risk Insurance of Stock				8	0	8
,, Micro Film, vols. i and ii, original series				0	15	0
,, Cash at December 31, 1942 :						
At Bank	279	4	4			
In Hand	2	0	4			
				281	4	8
				£933	14	2½

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance and also the investment of £200 3% Defence Bonds.

London : 48, Copthall Avenue, E.C.2.
March 1, 1943.

CASH, STONE & CO.,
Chartered Accountants.

[*Contributed by* F. M. GOADBY, ESQ., *D.C.L.*]

As already announced, difficulties of communication and difficulties of public tion have led on this occasion to the substitution of a biennial for the usu annual Review of Empire legislation. One advantage we hoped to gain, hope not completely realized, was that the postponement might enable us present an ordered review of war legislation throughout the Empire. But th war goes on and has perhaps not yet reached its crisis nor its full repercussio upon legislative activity, though we rejoice in the brighter hope and full confidence with which the present situation inspires us.

It was said by them of old time that “ *inter arma leges silent.*” Behind th lines, however, the legislator (or his delegate) becomes more vociferous tha ever. “ The total of Orders in Council and other forms of Statutory Rules an Orders registered during 1941 is 2,157,” says Sir Cecil Carr (p. 27). “ War, he adds, “ stimulates the general interruption of the citizen's life and busine by way of Defence Regulations and Orders made thereunder for food rationing limitations of supplies, and other controls.” It is, however, impossible to summarize this multitudinous war legislation ; each one of us cultivates a more o less unpleasant acquaintance with certain facets in his social life and busine occupations. The broader aspects of war legislation present less difficulty t the reviewer. They are exemplified by such subjects as the following *Recruitment, Control and Organization of Defence Forces.* In the Unite Kingdom, we may mention the Allied Forces Act, 1940, and National Servic (Armed Forces) Acts, 1940, 1941, the last named (No. 2 Act) with its explic declaration that all persons of either sex are liable to national service wheth under the Crown or not and whether in the armed forces of the Crown, i civil defence, in industry or otherwise (s. 1). The age of liability for servic with the Armed Forces was raised to 51 (s. 2). The provision of s. 3 (4) tha a woman called up for service cannot be required “ actually to use ” or “ t take part in the actual use of ” any lethal weapon unless she has “ signifie in writing her willingness to do so ” has a pleasant tang reminiscent of earl Victorian ideas as to the “ delicacy ” of women. Imagination shrinks at th thought of Amelia Sedley or Florence Dombey handling lethal weapons, yet i every age there might be found women urgent to express the required willingness ; a youthful Betsy Trotwood or Beatrix Esmond may be well imagine in the Home Guard. In the Dominion of Canada the National Resource Mobilization Act, 1940 (p. 49) enables the Governor in Council “ to do an authorize such acts and things and from time to time to make such Orders an regulations requiring persons to place themselves, their persons and thei property at the disposal of His Majesty in the right of Canada as may be deeme necessary or expedient for securing the public safety,” and other Acts mak provision in respect of the constitution and government of the Royal Canadia Air Force (p. 48), establish a Department of National War Services (p. 50) amend the Pensions Act to meet the new conditions (p. 51), and increase th powers of the Department of Munitions and Supply (p. 48). In the Commonwealth of Australia the National Security Act, 1940, confers on the Governor General power to make regulations making provision for requiring persons t place themselves, their services and their property at the disposal of th Commonwealth, as appear to him to be necessary or expedient for securing th public safety. A similar provision occurs in the Emergency Powers (Defence Act, 1940, of New Zealand (p. 148) and Act 25 (1940) of Newfoundland, an special powers to make regulations for the effectual prosecution of the war ar contained in Act 13 of 1940 of the Union of South Africa (p. 162). In Souther

Rhodesia the National Service (Armed Forces) Act, 1940, introduced a special war-time conscription into the Colony's Defence Force for service in any part of the world (p. 171), and every male British subject from 18–45 years of age ordinarily resident in Northern Rhodesia was made liable to military service (p. 169). The National Service (European British Subjects) Act of the Indian Central Legislature provides for enforcing on European British subjects service in the armed forces of or in a civil capacity under the Crown. Regulations by the Governor of the Gold Coast, made under the U.K. Emergency Powers (Defence) Acts extended to that territory, constitute a Gold Coast European Volunteer Reserve and make provision for compulsory service for individual Europeans and Africans when specified as a category or class. A Home Guard of volunteers for the Gold Coast is also constituted (pp. 219, 220). An Ordinance (No. 28) of Sierra Leone (1941) "embodies all the essential obligations imposed by Parliament upon His Majesty's subjects in the United Kingdom (p. 223). Conscription for all British and British protected male persons was introduced into Tanganyika Territory (p. 227), and Law 16 of Cyprus enabled the Governor to form a local "Cyprus Volunteer Force" (p. 247).

Next to personal service the provision of adequate funds for the prosecution of the war claims attention. It must, however, here suffice to mention a few examples of the efforts, all but universal throughout the Empire, to check excessive profits and to augment the financial resources available for war purposes. Our own drastic Finance Acts leave Income Tax at the dizzy height of 10s. in the £ and surtax much higher, coupled with an excess profits tax soaring "to 100 per cent. of the duly ascertained excess" (pp. 9, 23–24).

Sir Cecil Carr makes special reference (p. 24) to the limitation of pre-war provisions for tax-free payments of annuities, etc., effected by the Finance Act of 1941. The provision has already been the subject of judicial interpretation. The Court of Appeal in *In re* Waring (58 T.L.R. 367) happily felt able to reverse the somewhat startling decision of Farwell J. which seemed to give a very extended meaning to the maxim that a will speaks from the date of the death of the testator. The decision of Simonds, J. in *In re* Tredgold (59 T.L.R. 99) is less startling, though it gives to a usually formal clause an effect almost certainly unthought of by the testator.

The double purpose which invades much modern, and particularly war taxation is exemplified by the Purchase Tax (p. 10), a novelty in this country. This tax has also been imposed in the Isle of Man (p. 39), where, moreover, provisions similar to those in the Imperial Acts have been introduced to counter the activities of the discreditable tax-evaders (p. 40). The Index rather than this Introduction is the more suitable source of information as to the numerous jurisdictions in which there are imposed Excess Profits taxes, increases of and extensions of Income Tax, exemptions from or limitations of Estate Duties in the case of those dying on active service, provisions for issue of War Savings Certificates and the like. Attention may, however, be drawn to certain Finance Acts of special interest. The Dominion Government of Canada levied a Dominion duty on Successions as to which Mr. Francis gives us many details (pp. 52, 53). In determining the rate, he tells us, more emphasis is laid on the size of the amount received than is the case with similar Provincial legislation, this being, very properly, considered the better method of judging ability to pay. The combination of the new Dominion rates and the Provincial rates is expected to result in a total tax of about the same magnitude as is paid in Great Britain. The Gift Duty Assessment Act of the Commonwealth of Australia levies a duty on every gift made after October 29, 1941. No duty, however, is payable where the value of all gifts made within 18 months previously or subsequently by the same donor to the same or any other donee does not exceed £500. And there are certain exemptions, including money paid by an employer to an employee who is a member of the Defence Force for the purpose of augmenting the employee's pay as a member (p. 102). The Wheel Tax of 1941 in the Transvaal (p. 168) is imposed on every "vehicle," with differing rates for vehicles generally and bicycles and tricycles in particular. For not very obvious reasons, hospitals, universities and similar institutions are exempt, but Mr. Nathan does not indicate the scope of these exemptions more precisely. A Wheel Tax on carts and cycles in rural areas is also mentioned as imposed in Coorg (p. 205). Compare also Orissa (p. 202). Drastic provisions for reducing certain kinds of taxation were requisite in the Isle of Man, where nearly all the boarding houses and a great many of other shops and business houses depended upon the visiting industry, now unhappily suspended, and the First Deemster gives us some account of these (pp. 38, 39).

The *War Damage Insurance* legislation in the United Kingdom is regarded by Sir Cecil Carr as "for the legislators and the draftsmen as the biggest and toughest job of the year" (p. 22). The Imperial Act applies also to Northern Ireland (p. 31), but is supplemented there by provision for payment of certain administrative expenses. In Eire a Neutrality War Damage Act provides compensation out of the public funds (p. 47), and legislation on the same subject is to be found in various jurisdictions, e.g., in New Zealand (p. 154), South Africa (p. 164), Gibraltar (p. 245). *Rent Restriction* is a still more common heading ; it is a little noteworthy that it should have been necessary in Punjab (p. 197) ; Sierra Leone (p. 223) ; Kenya (p. 224) ; Tanganyika (p. 228) ; British Guiana (p. 233); and Jamaica (p. 239). In Palestine the Landlords' and Tenants' (Ejection and Rent Restriction) Ordinance, 1934, only applied to municipal areas and when so specially provided. Mr. Wyndham tells us that the threat of air raids on Haifa and Tel Aviv provoked a considerable flight to "safer" areas, and profiteering resulted. An Ordinance of 1940 remedied this defect (p. 249). The *Evacuation of Children* from the United Kingdom, though in the end much limited in its scope, made requisite provisions for dealing with certain special problems. In Prince Edward Island the Deputy Provincial Secretary was declared legal guardian of evacuated children who had no legal guardian in the Province (p. 77). A similar provision was made in Saskatchewan (p. 90). But general provision is made by the Migration of Children (Guardianship) Act of the Imperial Parliament (p. 19). A special exemption for income tax purposes was given in New Zealand to the foster parents (p. 149).

The tale of legislation which resulted exclusively from war conditions might be much prolonged, but what has been said suffices to indicate its general character. A good deal of the remaining legislation was clearly influenced by the war, but may be considered under more appropriate headings. We note first that *Constitutional* changes were very few. Objections to elections of representatives in war time are well grounded and, in accordance with precedent, the Imperial Parliament has prolonged its own life (pp. 2, 3). By an amendment of the Succession to the Crown Act, 1707, Members of Parliament appointed to place of profit under the Crown are no longer to be disqualified if the appointment is certified to be required for purposes connected with the prosecution of the war (p. 19). Quebec extended the right to vote and of eligibility in Provincial elections to women as from January 1, 1941 (p. 78), and an amendment of the Cities and Towns Act grants to all women rights of voting and eligibility in municipal elections, previously limited to widows and spinsters (p. 84). The Commonwealth Electoral Act, 1940, in Australia further regulated the somewhat complicated arrangements at Senatorial and other elections. Among other provisions it is declared an offence without the written authority of a candidate to announce or publish any matter in which it claimed that the candidate is associated with or supports the policy of any association, league, organization or other body of persons (pp. 94, 95). A further Act enables members of the forces on active service to vote at Federal elections (p. 95). The Kingdom of Tonga with confidence authorized Her Majesty in Council to enact during war time Ordinances or Regulations for the good government of the Kingdom which should have the same force and effect as if passed by the Legislative Assembly (p. 158).

The most important addition to the *Criminal Law* is the Treachery Act, 1940, of the United Kingdom (p. 3), which though declared (s. 6) to be limited in duration to the period of emergency no doubt foreshadows an essential modernization of the law of Treason. It applies to British subjects generally "elsewhere than in a Dominion, India, Burma or Southern Rhodesia" (s. 4 (*a*)) and to any person in the United Kingdom (s. 4 (*c*)). The Dominion of Canada has made a similar enactment (p. 49). Enemy aliens under both of these Acts may be tried by court-martial. In South Australia a series of amendments was made to relevant Consolidation Act of 1935 (pp. 133–134), of which the most interesting is the abolition of the legal presumption of coercion by the husband, but it is to be a good defence for a wife to prove that an offence was committed in the presence of and under the coercion of her husband. Mr. Woinarski views with disapproval the Victorian law, No. 487 (*b*) of 1941, as "continuing the modern practice of eyeing indulgently the devices adopted by fraudulent debtors." One of its provisions frees the debtor from liability to committal where he has wilfully contracted a liability without reasonable expectation of its discharge (p. 141). New Zealand has abolished capital punishment for murder and also the penalties of flogging and whipping (p. 153). Nigeria has adopted the provisions of the Imperial Official Secrets Acts, 1920 and 1939 (p. 221), and there, as in other territories, the English law of infanticide has been introduced (p. 220, *cf*. Aden, p. 211 ; Uganda p. 228 ; Leeward Islands p. 240). The law as to seditious and undesirable publications has been strengthened in several of the West Indies (*cf*. Jamaica, p. 238 ; Leeward Isles, p. 240 ; Dominica, p. 240 ; St. Vincent, p. 244). A few interesting provisions as to less serious offences may be mentioned. A consolidating and amending Vehicles and Highway Traffic Act, 1941, in Alberta requires the much harassed pedestrian to keep to the "side-walks" or, if there be no "side-walk" to the left-hand edge of the highway. A more welcome provision authorizes the Court to impound a bicycle the second time its owner has been convicted of using "the same" without proper lights (p. 57) ; Manitoba (p. 63) also requires the pedestrians to keep to the "side-walks." Parents also are to be punishable if they permit their children to be late for school habitually (p. 64). Nova Scotia has made more difficult the restoration of a driving licence to a person convicted of drunken driving (p. 74). Quebec, with a courage worthy of imitation, prohibits advertisements representing that alcoholic liquor "is beneficial to health or possesses nutritive or curative value" (p. 83). The Act of New South Wales dealing with Fair Rents makes punishable a refusal to let a dwelling house to a respectable applicant on the ground that the applicant has a child or children (p. 106). In Tasmania an Act of 1941 prohibits the advertisement, sale, etc., of contraceptives (p. 135). What Mr. Woinarski describes as the *Cacœthes legisferendæ* in Victoria was partly assuaged by a Betting Act which "in view of local proclivities is stringent." Of these stringencies mention in particular may be made of the prohibition of the communication of betting information from race-courses during race meetings. In Papua, where, however, actual conditions are presumably abnormal, every publican must provide an adequate dining-room and cause meals to be prepared, cooked and served within prescribed hours (p. 147). South Africa has usefully regulated the display of advertisements outside urban areas and other eyesores produced by modern commercial effort (p. 162). Madras has attempted to deal with the nuisance of loud-speakers and extended the provisions of the Prohibition Act to intoxicating drugs (p. 188). Upon this question of prohibition an Act of Bombay reversed a decision of the Special Bench of the High Court (Chumubhai Latbhai *v.* Emperor) by which the scope of the Prohibition Act had been much limited. It is interesting to observe that in interpreting the Act the Court gave weight to what it assumed to be the object of the Act, and the Legislature has now amended the preamble to correct the Court's assumption (p. 188). In two other cases mentioned by Mr. Moos the High Court was over-ruled by the legislative powers, in the interpretation of "using a house" in the Bombay Gambling Act, 1887 (p. 191) and as to whether a small knife should be treated as an offensive weapon (p. 192). In the N.W. Frontier Province the publishing, printing and sale of the Koran by non-Muslims is now an offence (p. 201). So also in Sind (p. 202), where opium smoking and, for certain classes of persons, the consumption of intoxicants are prohibited (p. 203). In Kenya the sale of native liquor is apparently encouraged, though controlled, large employers being permitted to establish canteens for their employees, though profits are to be paid to the local authority for the benefit of the natives (p. 225). Native spirituous liquor is, however, prohibited by an Ordinance of 1941 (p. 225). A good deal of legislation has been enacted touching the *Public Health* and, in particular, the interests of *Children*. As to the last-named, the wisdom of the Alberta law which renders a school child punishable who refuses to take part in a patriotic exercise may be questioned (p. 58). The State school children in Victoria are required regularly to take part in a patriotic ceremony in which they make a loyal declaration, "I love God and my country; I honour the Flag; I will serve the King and cheerfully obey my parents, teachers and laws." The teacher who refuses to conduct this ceremony may be subjected to discipline (p. 137), but we are not told what happens if there be a recalcitrant child or an objecting parent. The Quebec Education authorities now require annual certificates of health from every person engaged in teaching, and in particular certificates from a phthisicologist certifying freedom from tubercular disease (p. 84). And in Saskatchewan health certificates are now required with reference to both parties to a marriage (p. 89). Nor are these certificates permitted to be formal only; the conditions under which they are made are carefully set forth. A scheme of Child Endowment has been adopted in the Commonwealth of Australia, and extends even to the aboriginal inhabitants (p. 100), and the same Dominion has made provision for a Council for National Fitness (p. 101). A careful and wide-embracing Act of New South Wales, 1939, provides generally for the protection of child life (pp. 104, 105) and in 1940 provision was made for an Advisory Committee on Youth Welfare and a graduated rise of the school leaving age to 15. It is permitted to wonder what unpleasant circumstances made necessary the provisions of No. 18 of 1940 in Queensland whereby it becomes an offence for any person (other than a pupil) wilfully to disturb any school or to abuse any teacher in the presence of the pupils (p. 124). It remains, no doubt, as in our long-past school days, a school offence for a pupil wilfully to disturb the school. On the subject of education Queensland has enacted, though not at once brought into operation a comprehensive measure of co-ordination. We refer readers to Mr. Broadbent's resumé on p. 125. In South Australia the long-standing "religious" difficulty receives a solution which would find few supporters in this country, namely, the separation of the children into little flocks for the purpose of religious teaching by their respective shepherds. These last items show that in Australia the subject of child nurture and education is attracting much atten tion. A broad enactment of 1941 in the Punjab provides for compulsory attendance of children at primary schools, defining "school age" as between 6–12 for boys and 6–11 for girls. The application of compulsion follows a 2/3 majority resolution by the local authority of an area which must be forwarded to the Provincial Government with a statement showing the accommodation, equipment and staff required and the expenditure thereon which the local authority is prepared to supply (p. 196). Efforts in the same direction are mentioned in Central Provinces (p. 199) and Coorg (p. 203). An Ordinance of the Falkland Islands has provided for the prevention of cruelty and exposure to moral and physical danger to children up to 16 by making punishable various dangerous acts and omissions, e.g., failure to provide clothing, food, medical aid, etc. (p. 234), and in St. Helena the school leaving age is raised to 15 (p. 235). As regards the *Medical* profession, it is to be remarked that the strict application of the Medical Practitioners Act of 1938 in New South Wales, of which a summary will be found in a former issue[1], has been found difficult, and various alleviations as to conditions of practice were introduced in 1939. Moreover, in areas where residents are not adequately provided with medical service qualified medical students may be issued with a certificate of regional registration (p. 108). A similar provision is reported from Western Australia (p. 145). The scheme for the provision of medical benefits under the New Zealand Social Security Act of 1938[2] has required variation in consequence of opposition on the part of the profession. A new scheme was elaborated by the Finance Act of 1940, but neither has this operated satisfactorily. One of the objections to the scheme, Mr. Christie tells us, is that the profession considers "the time inopportune having regard to the absence overseas of so many doctors engaged in military service (pp. 150, 151). And we may further note that in Gambia inoculation against yellow fever has been made compulsory for persons of European or Asiatic origin (p. 218), and that an attempt to limit the operations of chain-store or company chemists has been made by the Pharmacy Act of 1940 in New South Wales (p. 113).

The *Legal* Profession did not call for much further regulation during the two years under review. The U.K. Solicitors' Emergency Provisions Act, 1940, made possible many relaxations of rules as to admission (p. 15), and the new Solicitors Act, 1941, further and drastically regulated the practitioner when admitted. When this Act is fully in force the solicitor will not only be required to pay annually for his certificate to practise, but also to subscribe to the Law Society and to make a contribution towards a compensation fund. And an annual accountant's certificate will have to be produced, which, of course, involves an annual fee (p. 26). As compared with the freedom of the Bar, the "junior" branch of the profession will walk in fetters. Women were admitted to practice of law in Quebec as from April 29, 1941 (p. 85), and an Act of the Union of South Africa amending the Attorneys Admission Act of 1934 controls canvassing, touting and advertising in connection with legal work, as also the drafting of certain documents by unauthorized persons. Provision is also made for the establishment of an Attorneys' Fidelity Fund (p. 164).

State planning on an extended scale is designed under an extension effected in 1940 of the Queensland State Development Act, 1938[3] by the increased functions given to the Co-ordinator-General, who is now authorized to plan local authority works and also to construct works (pp. 116–117). This serves as a bridge to the consideration of legislation touching Economic conditions. *Agriculture* was less prominent than in some recent years. An Unemployment and his wife's torts and ante-nuptial contracts was abolished in Jamaica (p. 239)

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[1] *Jour. Comp. Leg.*, 3rd Series, July 1940, pp. 67, 68.

[2] *Jour. Comp. Leg.*, loc. cit. at pp. 107 ff.

[3] See *Jour. Comp. Leg.* 3rd Series, July, 1940, page 70.

Throughout the West Indies a law enabling consular officers to administer the estates of foreigners came to be adopted (e.g., Bahamas, 1940, p. 230 ; Leeward Islands, 1941, p. 240 ; Grenada, 1940, p. 241 ; Santa Lucia, 1941, p. 242 ; Saint Vincent, 1940, p. 243 ; Trinidad, p. 244. Throughout the same region provision had also to be made for the U.S. Air and Naval Bases (British Guiana, p. 232 Bahamas, p. 235; Jamaica, p. 239; Trinidad, p. 245). Gibraltar (p. 245) and Cyprus (p. 246) also adopt the law as to administration of foreigners' estates. In Gibraltar Grand Juries have been suspended (p. 245) for the excellent reason that all grand jurors have been evacuated. In Trans-Jordan the Succession to the Throne has been regulated by an amendment of the Organic Law (p. 251) and a law of considerable local interest has very sensibly and by request of the non-Moslem communities applied the provisions of the Ottoman Law of A.H 1331 to the succession of all non-Moslem Trans-Jordanians.

BRITISH EMPIRE

I. BRITISH ISLES

1. UNITED KINGDOM

[*Contributed by* SIR CECIL CARR, LL.D., *Editor of Statutes Revised.*]

(The chapter references in the following summary are to the session 3 & 4 Geo. VI unless otherwise indicated.)

FIFTY-NINE Public General Acts were passed in 1940, fifty-four of them in the session 3 & 4 Geo. VI (cc. 3–56), the rest in that of 4 & 5 Geo. VI (cc. 1–5). Most of them concern the war effort. Many are limited in duration to the " war period "[1] or the " period of the present emergency."[2]

The final paragraphs of this summary will deal with the Defence Regulations and the orders made thereunder. This war-time delegation of the law-making power is wide in its scope and copious in its exercise. But it is far from superseding the normal process of direct legislation by Parliament. That process is at present working smoothly and swiftly. There is no opposition to its general purpose ; Parliament is in almost continuous session ; Bills are not delayed by being " sent upstairs " for intensive scrutiny in the political atmosphere of a peace-time committee-room ; the proposed enactments are known to be largely temporary, and, if found defective, to be capable of rapid amendment. Respect is plainly still paid to the traditions of representative government ; in case of doubt a Bill is preferred to a Defence Regulation ; Ministers neither disdain nor disrelish opportunities to expound their proposals to Parliament.

There is no progress to report in the improvement of the statute-book. There is no consolidating statute among the Public General Acts of 1940. What is presently said of the law of treason and of truck may suggest that the British reluctance to modernize old enactments, whether due to reverence for legislative landmarks or to laziness, has its inconveniences.

Printing and Publication.—As foreshadowed in last year's summary, the official annual volume of statutes is now a calendar-year collection, no longer related to the Parliamentary session, though citation by reference to regnal year and chapter remains undisturbed. A minor novelty is the substitution of a table of short titles for the table of long titles, less concise and seldom more informative with which the annual volumes used to begin.

The India and Burma (Miscellaneous Amendments) Act has a direction (c. 5, s. 17) that the original Government of India and Government of Burma Acts of 1935 shall have their text officially reprinted with the fresh amendments incorporated.

The standing statutory direction (renewed in 1932) for the periodical reprinting of the Army Act and Air Force Act with all current amendments inserted has a provision that these Acts shall be construed as if enacted with those additions, omissions or substitutions (22 & 23 Geo. VI, c. 22, s. 15 (3)). It is now declared (c. 18, s. 6) that this provision is not to cast any doubt on the continued operation of any enactment or Defence Regulation which amends those Acts in general terms without making specific verbal alteration.

Constitutional Matters.—Illustrating its own legislative omnipotence, Parliament prolongs its life by three brief lines in a one-clause Act (c. 53). S. 7 of the Parliament Act, 1911, substituted five years for the septennial period prescribed in

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[1] Sometimes defined as the period during which the Emergency Powers (Defence) Act, 1939, is in force: for the extension of that period see p. 18 and footnote below.

[2] Sometimes defined as beginning with the date of operation of the statutes concerned (or, more rarely, as beginning on September 3, 1939) and ending on such date as His Majesty may by Order in Council declare to be the date on which the emergency came to an end.

1715; the new Act substitutes six for five in respect of the present Parliament. Like prolongation was enacted in the last war.[3]

In 1937 the Judicial Committee of the Privy Council invalidated some of the so-called " New Deal " legislation of the Dominion of Canada,[4] including the Employment and Social Insurance Act, 1935. This conflict between national and local governments, inevitable in a Federal organization, led to the usual suggestion for re-writing the Canadian constitution. For the present a short British North American Act (c. 36) merely amends the constituent statute of 1867 by inserting unemployment insurance among the classes of subjects (listed in s. 91) on which the Dominion Parliament is competent to legislate. The amendment is enacted at Westminster at the request of Canada, as is recited in a preamble.[5]

General Emergency Powers.—Britain has never crystallized liberties in an immutable constitution ; otherwise we might classify among constitutional laws the two 1940 extensions of the Emergency Powers (Defence) Act, 1939, which was passed a few days before the war began.

Summarily enacted in a few hours on a day when the Battle of France was drawing to its close, the Emergency Powers (Defence) Act, 1940, is an expression, spiritual perhaps rather than legislative, of a nation's self-dedication (c. 20). Henceforth Defence Regulations may require persons " to place themselves, their services and their property at the disposal of His Majesty " for those wide purposes of public safety, national defence, public order, the efficient conduct of the war and the maintenance of essential supplies and services, which are named in the 1939 statute. In effect, though maybe not consciously, this repeals the 1939 restriction on industrial conscription. Though it gives almost unlimited scope to the regulation-making power, it has not noticeably disturbed the balance between statutory and non-statutory law-making. The new Act also briefly continues the original Act of 1939 for two more years,[6] thus showing a matter-of-fact and defiant readiness to make it at least a three-year war.

The Emergency Powers (Defence) (No. 2) Act, 1940, prepares against invasion or other grave disturbance (c. 45). The preamble recites that the 1939 Act made no provision for trial by court martial of persons not subject to the Naval Discipline Act, military law or the Air Force Act. " By reason of the development of hostilities, it has become expedient to remove doubts as to the extent of the said powers in order to secure that provision for the trial of such persons by special courts may be made where necessary." Defence Regulations may therefore ensure that, " where by reason of recent or immediately apprehended enemy action the military situation is such as to require that criminal justice should be administered more speedily than would be practicable by the ordinary courts," persons (whether subject to the special codes governing H.M. Forces or not) can be tried by " such special courts, not being courts martial, as may be so provided." The Regulations may provide for review of the proceedings, by not less than three persons who hold or who have held high judicial office, in all cases of the death sentence and in such other circumstances as the Regulations may prescribe. The prospective arrangements for these " War Zone Courts," presided over by a judge of the High Court or person of similar standing and equipped with advisory members, will be found among the Statutory Rules and Orders of the year. The Regulations contain three safeguards emphasized by Lord Atkin in the course of debate—the right to be represented by solicitor or counsel, the application of the ordinary rules of evidence, and the power of compelling witnesses, even military witnesses, to attend.

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[3] See 5 & 6 Geo. V, c. 100, s. 1 (1); 7 & 8 Geo. V, c. 50, s. 1; 8 & 9 Geo. V, c. 22. s. For the 1941 extension see 4 & 5 Geo. VI, c. 48.

[4] (1937) A.C. 326–418. See the special number of the *Canadian Bar Review* of June, 1937, and the note in this *Journal,* 3rd series, XIX, p. 276.

[5] Canadian drafting practice prevailed over British in the omission of words describing the general purport of s. 91. See *Journal,* 3rd series, XXII, p. 194.

[6] For the further continuance by Orders in Council (under 2 & 3 Geo. VI, c. 62, s. 11 (1) proviso) see S.R. & O. 1941 (No. 1086 II, p. 3, and 1942 (No. 1542).

Treachery.—Defence Regulation 2A, punishing acts done with intent to assist the enemy, did not impose the death penalty. A capital sentence would, of course, follow a conviction for treason ; but the Treason Act, nearly six centuries old, invited dilatory argument (as the Casement Trial showed in 1917) and was encumbered with special procedure. The original Emergency Powers (Defence) Act had omitted to assimilate a prosecution for treason to one for murder or other felonies. The law of treason, moreover, while applicable to all British subjects, wherever they may be, and (by virtue of the doctrine of local allegiance) to aliens resident within His Majesty's jurisdiction, might not catch the alien who arrived surreptitiously in Britain for sabotage, espionage or other hostile purpose, owing His Majesty no allegiance. Parliament, having failed to modernize and clarify the law in the leisure of peace, had now to improvise a temporary alternative. The Treachery Act (c. 21) begins as follows:—

"If with intent to help the enemy, any person does, or attempts or conspires with any other person to do, any act which is designed or likely to give assistance to the naval, military, or air operations of the enemy, to impede such operations of His Majesty's Forces, or to endanger life, he shall be guilty of felony and shall on conviction suffer death."

There can be no prosecution under the Treachery Act (except at a court martial) without the Attorney-General's consent. Enemy aliens may, if he so directs, be tried by court martial. If anyone convicted under the Act was, at the time of the offence, a member of the armed forces of the Crown or of any foreign power, including an enemy power, the Secretary of State may direct that, instead of being hanged as for murder, he may be shot as if sentenced by court martial—an echo perhaps of Major André's case in 1780. A charge under the Treachery Act can be joined in the same indictment with any other charge (except one of treason) if founded on the same facts or forming a series of offences of the same or similar kind. It could thus be linked with one under Defence Regulation 2A (assisting the enemy) or 2B (sabotage), if a lesser penalty than death seemed appropriate. Trial and punishment may take place anywhere in the United Kingdom. The Act is temporary inasmuch as no offence can be committed against it when the present emergency is ended.

Aid to Czecho-Slovakia.—Two statutes of 1939 arranged for financial aid to Czecho-Slovakia (a free gift of four millions for refugees and a loan of six millions for reconstruction) and for the subsequent blocking of bank balances, gold and securities after the German invasion. Now a Czecho-Slovakia (Financial Claims and Refugees) Act, with an explanatory preamble as long as its operative clauses, winds up the gift and loan accounts (c. 4). There will be a Czecho-Slovak Refugee Fund, controlled by the Treasury, and the Comptroller and Auditor General will make his audit.

India and Burma.—The India and Burma (Miscellaneous Amendments) Act (c. 5) makes various changes in the 1935 legislation. A naval force for Burma had not then been contemplated. When a naval volunteer force was to be raised for the defence of the approaches to Rangoon, it was too late to adapt the Naval Discipline Act by Order in Council under s. 311 (5) of the 1935 Act. The Government of Burma is allowed by c. 5 to apply the Naval Discipline Act to any naval forces raised in that country. Among other amendments affecting India "corporation tax" is defined afresh ; "tax on income" is to include a tax in the nature of an excess profits tax. Municipal or other local authorities are not to be debarred from taxing professions, trades, callings or employments on the grounds that this would amount to an income tax ; but the tax must not exceed fifty rupees per annum. This protects the field of the central revenues against invasion by provincial taxation. Another clause conversely protects the provincial revenues by securing them the taxes on motor vehicles and the sale and consumption of electricity on which the central government might else have claimed to levy an excise duty. Power is given to appoint " acting " puisne judges of the Federal Court. The respective legislative competence of the Federal and Provincial legislatures in respect of universities is altered and there is new provision for certain pensions—e.g., for home civil servants appointed to office in India or Burma.

Later an India and Burma (Emergency Provisions) Act anticipates possible difficulties due to interrupted communications (c. 33). During the emergency period the Governor General can exercise powers, normally exercisable by His Majesty, of appointing or removing officials in India ; there is an exception, of course, for the offices of Governor General and of H.M. representative for exercising the functions of the Crown in its relations with the Indian States. The Government of India, contemplating taking power to conscript Europeans for military service in India's defence, found an obstacle in s. 110 of the 1935 Act, which *inter alia* preserves the integrity of the Army Act. To get round this impediment the Governor General's existing statutory power to make ordinances in emergency is extended to allow them to affect the Army Act, Air Force Act, and Naval Discipline Act, and the six-months time limit on the ordinances is suspended. These new powers of the Governor General are kept under the statutory control of the Secretary of State as long as is physically possible. The provision for Burma is slightly different. A final subsection secures that the validity of anything done by the Governor General of India or the Governor of Burma shall not be called in question on the ground that the Secretary of State had not been consulted.

The Armed Forces.—The usual Army and Air Force (Annual) Act makes few changes (c. 18). The historic preamble, still reproducing seventeenth-century suspicions against a standing army, names in war-time no numerical limit, but contemplates " such number as His Majesty may deem necessary." Normally the annual amendments operate at home from April 30th, and abroad from July 31st ; the difference perhaps recalls the delays of the old days of sailing ships. This year they operate everywhere on the earlier date, because some amendments affect forces both at home and in the Dominions. A new section 187C of the Army Act and the Air Force Act places Australia and New Zealand, which have not yet adopted sections 2–4 of the Statutes of Westminster, in the same position in respect of military and air-force law as other Dominions where those sections apply. Thus the codes of these two countries will take effect beyond their shores ; they have recently enacted legislation corresponding to the Visiting Forces (British Commonwealth) Act, 1937. Newfoundland forces are in the same position as those of a colony. Minor amendments deal with such matters as complaints and punishments in mixed forces.

Several governments of countries now occupied by the enemy have maintained and trained forces on British soil. To give full extra-territorial effect to their disciplinary courts and codes there is an Allied Forces Act (c. 51) not unlike the Visiting Forces (British Commonwealth) Act. Where the allied force is present in the United Kingdom or in any of H.M. ships or aircraft, the naval, military, and air-force courts and authorities of the allied Government may exercise all such powers as are conferred upon them by its law. A foreign authority, if recognized by His Majesty as competent, may by order (concurred in by the Admiralty or a Secretary of State) confer all necessary powers for the discipline and internal administration of the forces so present. There is a saving for the jurisdiction of the civil courts of the United Kingdom (or any colony or territory to which the provision is extended) to try a member of an allied force for an offence against the ordinary law ; he will be in the same position as our own sailors, soldiers or airmen. Lastly, since the allied forces may be present as small contingents with larger British forces, mixed courts martial (including officers of the allied as well as the British forces) are made possible.

The National Service (Armed Forces) Act, 1940 (c. 22) concerns the Local Defence Volunteers, now better known by their alternative title of Home Guard.[7] Membership is not to exempt anyone from liability under the National Service (Armed Forces) Act of 1939. Another short Act (c. 24) legalizes the enlistment of men called up in the Channel Islands under local laws for service in the forces of the Crown. By ancient right, confirmed to Guernsey, Alderney and Sark by an Elizabethan charter in 1560, Channel Islanders are exempt from liability to serve outside their islands except for the purpose of rescuing the sovereign. The States having voluntarily waived any such restriction, the Westminster Parliament gives their law an extra-territorial effect.

The Admiralty needs a Naval and Marine Forces (Temporary Release from Service) Act (4 & 5 Geo. VI, c. 4). Though there was power to release reserves or pensioners, there was none for releasing men serving under normal engagements or called up under the National Service (Armed Forces) Act—except by way of complete discharge, which would cancel the right to recall them. Thanks to the new Act they can now be made available for temporary skilled work in factories or for harvesting.

Consequences of War Service.—Men of the forces suffered occasional inconvenience for want of facilities for swearing oaths and affidavits. The Lord Chancellor set up a committee under Lord Maugham (himself the sponsor of reforms of the law of evidence in 1938) ; the Evidence and Powers of Attorney Act (c. 28) contains its recommendations. The Lord Chancellor may by order invest naval, military, and air-force officers of specified grades with the powers of a commissioner for oaths to administer an oath or to take an affidavit. The Secretary of State can give like authority to diplomatic, consular or other foreign-service officials of a power which has undertaken to look after British interests in a country where the Crown has no such representative. This provision will operate in the future as well as in the present war. Another clause, limited to the present " war period," arranges for powers of attorney executed by (i) members of the forces or (ii) British subjects " in territory which is under the sovereignty of, or in the occupation of, a power with which His Majesty is at war, not being territory in the occupation of His Majesty or of a power allied with His Majesty." In this connection three safeguards are required:—the document must be filed or registered in the Supreme Court or in the corresponding office in Scotland or Northern Ireland ; it must be accompanied by a solicitor's affidavit that he sent it out for execution and believes the signature to be that of his client ; and an attesting witness is to swear an affidavit of due execution. Another part of the Act affects criminal proceedings. Censorship is necessary for national security, maintaining exchange control and preventing trade with the enemy. Proof may be needed that a letter went through the post and was examined by an authorized examiner on a specified date or that a photographic copy of an intercepted document is a true copy made by an authorized photographer. To avoid taxing a censor's memory too severely or requiring his attendance in court, the Act makes a competent officer's certificate admissible evidence of these matters.

An enabling rather than compelling statute, the Superannuation Schemes (War Service) Act, allows employers or trustees to continue benefits for persons who leave their work during the present emergency to undertake service with H.M. forces or " employment for war purposes " (c. 26). The Minister of Labour and National Service can certify the work which in his opinion is " employment for war purposes " proper to be treated under the Act like service in the forces of the Crown ; it was likely that work on munitions, ship-building, coal-mining, agriculture, and air-raid precautions and auxiliary fire services would thus be recognized. The Act is not to apply to those classes of local government officials, teachers, constables and firemen for which provision already exists. The Marriage (Scotland) (Emergency Provisions) Act operates where two people, one of whom is on war service, wish to contract a regular marriage in Scotland after notice to the registrar (c. 30). The normal requirements are residence in Scotland in a particular place for fifteen days before the notice and a delay of seven clear days after notice before the certificate can be issued. To diminish hardship, and especially perhaps because an Act of 1939 was about to end the irregular or "Gretna Green" marriage, the new law (following a temporary precedent of 1916) dispenses with the seven-days interval and allows the certificate to be issued twenty-four hours after the notice is given. War service here includes not only naval, military and air-force service, nursing and other auxiliary services, but also any other service in a British ship during the war period.

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[7] See S.R. & O. 1940 (No. 1383) II, p. 230. For the establishment of the forces see *bid.*, p. 229. For the discontinuance of the name " Local Defence Volunteers " see S.R. and O. 1942, No. 91.

Like a statute in 1917, the Confirmation of Executors (Scotland) Act facilitates administration of estates of men on war service reported missing and officially presumed dead (c. 41). Confirmation is the making up a title enabling the executor to distribute the estate. During war it is difficult to produce the usual proof of death and of the date of death. A certificate or intimation from the competent authority (the Admiralty, Army Council or Air Council, as the case may be, or, for service in the Merchant Navy, the Registrar-General of Shipping and Seamen) to the effect that a report of the death has been accepted for official purposes, or that the person concerned was missing on a named date and is presumed for official purposes to be dead, will be sufficient, together with an oath or affirmation that to the best of the dependent's knowledge and belief the person is dead. For greater safety the sheriff may delay granting the petition till six months after the date of the certificate and may order intimation to the competent authority or to anyone else who may appear to be interested.

War-time Postponements.—Local, like Parliamentary, elections are held over The Local Elections and Register of Electors (Temporary Provisions) Act, 1939 is continued for another year by a similarly named Act of 1940 (4 & 5 Geo. VI c. 3) with fresh provisions for the superannuation rights of contributory employees and other minor adjustments.

The new quinquennial valuation in England, due in the spring of 1941, was not ready. Local officials were overworked with air-raid precautions and other war tasks. Indeed, the valuation, if complete, would have been vitiated by erratic fluctuations in property values and by shifts of population. The Rating and Valuation (Postponement of Valuations) Act—a rather long short title—postpones the new valuation until after the war (c. 12). An obscure subsection secures that, for London, reassessments and revaluations may be made where special conditions so demand ; no such provision was needed outside London, property owners in the provinces having a right to revaluation if affected by changed values.

As in 1915, a Special Enactments (Extension of Time) Act assists local authorities, railway, gas and electricity companies and other statutory undertakers where they find themselves unable to complete works within the period which Parliament has prescribed (c. 16). Normally an extension would cost them the promotion of a Private Bill ; in obtaining it they would have to justify their delay to the satisfaction of a Parliamentary committee. In war-time restriction on man-power, on constructional materials, and on borrowing make it reasonable to delegate to a Minister of the Crown the power to extend the period by order There are two small departures from the 1915 precedent. The present Act allows extension of a time-limit (or postponement of a date) up to a maximum of three years ; the 1915 Act allowed it for only one year at a time. The present Act unlike its predecessor, covers any option to purchase or power of re-entry exercisable in respect of a public utility undertaking. In 1886 the Electric Lighting Act gave local authorities an option to purchase certain electricity concerns either at the end of forty-two years or at intervals of ten years thereafter. These terms were too rigid for times of emergency.

Colonial Development.—There was a Colonial Development Act in 1929. In 1940 a Colonial Development and Welfare Act (c. 40) betokens by its enlarged title the encouragement of human as well as material interests. The existing Colonial Development Fund is wound up. It could not exceed a million a year. In its place there is new money up to five millions a year for development and welfare and £500,000 a year for research. Before making any scheme for a colony, the Secretary of State must satisfy himself about its attitude to trade unions, employment conditions, fair rates of wages and child labour.

Agriculture.—Britain needing the maximum of home-produced food, the farm worker's wages must be attractive enough to compete with the pay he might earn in a factory. The Corn Production Act of 1917 (repealed in 1921) created an Agricultural Wages Board to fix minimum rates for him. In 1924 an Agricultural Wages Act re-established the Board and set up an agricultural wages committee in each county in England. The weekly rates fixed by the forty-seven local committees have varied by as much as nine shillings between county and county. An amending Act (c. 17) in 1940 requires the central Board " after consultation with the agricultural wages committee and after considering general economic conditions and the conditions of the agricultural industry " to fix a national minimum wage. A proviso allows a lower wage for any county or part of a county on the local committee's representations that " owing to the special conditions of the agricultural industry " the local wage rate ought to be lower than the national standard. County committees are to reconsider their minimum rates and vary them so as to conform with the national rate. In Scotland the farm worker's minimum wage was fixed by eleven local committees under an Act of 1937. The Department of Agriculture for Scotland (now the Secretary of State) could direct a committee to reconsider its rate. In that event (which had never occurred) the committee was to " reconsider the same and notify to the Department the result." The Department had no power to take the matter further. An amending Act in 1940 (c. 27) allows the Scottish Agricultural Wages Board, if it does not agree with the local committee, to vary the minimum rate by an order of its own.

The peace-time policy for agriculture, tending to diminish production in the hope of stimulating prices, will not do in war. To pay higher wages a farmer must have the support of guaranteed prices and subsidies. The Agricultural (Miscellaneous War Provisions) Act (c. 14) is in four parts. The Wheat Acts had fixed a standard price at 10s. a cwt. (45s. a quarter): a system of " deficiency payments " made up to the grower the difference between the standard price and the average price obtained by him for the sale of his wheat: the deficiency payment was not an Exchequer grant but a levy (called the " quota payment ") paid by millers and others to the Wheat Commission. There was a limit (the " anticipated supply ") to the amount of wheat grown which could qualify for the deficiency payment. The limit was thirty-six million cwt. per year ; if the wheat crop exceeded that limit, the deficiency payment to individual growers was to be proportionately scaled down. Part I of the 1940 Act removes this " ceiling " ; all the wheat the farmer can grow will qualify for the payment. The cereal year is divided into separate " accounting periods." He is to get the full payment irrespective of market fluctuations, and with the less delay since the deficiency payment is for a shorter period. The standard price of wheat goes up from forty-five shillings to forty-nine shillings and sixpence a quarter ; the Minister of Agriculture, with Treasury consent, may fix a different price in future cereal years. The quota payment is suspended ; instead the Minister of Food finds the money from which the Wheat Commissioners make the deficiency payments. The powers of the Commissioners are to be delegated to a committee of five of its members. Part II concerns grain subsidies and ploughing. The farmer can now get a higher rate of subsidy on oats notwithstanding that he has subsidy-earning wheat also on the farm. There is, for the first time, a subsidy on rye. The temporary ploughing grants are continued for any year of the war period, the conditions being made wider so that the land which would not produce a good cereal crop can now be re-seeded to grass. The minimum qualifying area is reduced from two acres to one. Part III encourages drainage of outlying land ; catchment boards can make and carry out schemes on the invitation of the war agricultural executive committees of the counties. The Minister may finance schemes for mole drainage and may authorize drainage boards to repair or remove dams ; the boards may control sluices. There are penalties for obstruction.

Under Part IV (miscellaneous and general) if the State requisitions derelict land or land not cultivated according to the " rules of good husbandry," the State may remain in possession for a period not exceeding three years after the end of the war. The Minister, on giving up possession, can recover the value of improvement from the owners. He can also arrange and pay for the provision of goods or services to persons requiring them for agricultural purposes. Recoupment of advances to the farmer can presumably be in part enforced by control of his milk cheque or his wheat payment. Other features are the extension of the land fertility scheme (a subsidy for providing and transporting lime and basic slag) to gardens—" any land wholly or mainly cultivated for the production of vegetables or fruit "—and a power for the Ministry of Food to make regulations for the marking of imported livestock.

Later a second Act in the same series (c.50) adds other amendments. The system of grants for mole drainage, useful on heavy soils, is extended to the field drainage of any agricultural land and the cleansing or other improvement of ditches on such land, with special arrangements for compensation between landlord and tenant. " Grass-ways " had been made over " fen-lands " by virtue of Defence Regulations so that the sugar-beet and other crops could be won from the potentially fertile soil. The Act arranges for recovering the cost of these ways and for their maintenance. Landowners will pay to the extent that the value of their property has increased ; disputes can go to an arbitrator: payments can be by instalments. Distress for arrears of drainage rates under local Acts is temporarily restricted. The time for making payment to owners of herds o cattle for eradicating bovine tuberculosis (under an Act of 1937) is extended fo another seven years. Where an occupier fails to comply with the directions of a war agricultural executive committee respecting cultivation or destruction o vermin under Defence Regulations, the Minister may do the work and recover the expense summarily as a civil debt. There are slightly variant provisions fo Scotland.

Cotton.—The Cotton Industry Reorganisation Act, 1939, postponed afte war began, set up a Cotton Industry Board with functions of research and experi ment and provided for price schemes and redundancy schemes. In war-tim prices are controlled by the Minister of Supply and redundancy difficulties dis appear. The Cotton Industry Act, 1940 (c. 9), establishes a Cotton Board with the usual technical details of corporate existence and procedure. The new Boar has functions like those of the Board under the 1939 Act but with emphasis o the encouragement of the export trade, particularly by advertisement, demon stration or instruction. The Board's expenses are to be met by levying contr butions from cotton spinners on the basis of fivepence for every hundred pound gross weight of cotton purchased. A Board of Trade order may prescribe a lowe rate. This levy follows and modifies the method used already in financing th Empire Cotton Growing Corporation. Henceforth the Cotton Board will pay th Corporation one penny for every five hundred pounds of cotton purchased. Th

Board will report on its activities each year to the Board of Trade, which in turn will inform Parliament.

Shipping.—Defence Regulations 43A and 53 enabled the Admiralty to requisition ships and control salvage. In the Valverda case[8] the House of Lords felt bound by precedent to bar the Crown's claim to salvage reward, though Lord Wright, speaking extra-judicially, could see no reason why the expenses of salvage by Crown ships should fall on the general taxpayer rather than on the underwriters, possibly foreigners, who benefit thereby. Section 484 of the Merchant Shipping Act, 1854, restricting the Crown's claim to salvage, was reproduced in section 557 of the 1894 Act. A statute of 1916 entitled the Crown to reward for the service of its specially equipped salvage vessels or tugs. Until the Valverda case the Admiralty might perhaps circumvent the remaining disability by voluntary agreement. The Merchant Shipping (Salvage) Act now enables the Crown to claim like any private salvor for salvage services rendered by any of H.M. ships and aircraft (c. 43). Requisitioned ships and aircraft are reckoned for this purpose as His Majesty's property, so that the Crown and not the owner will be entitled to the reward in the absence of agreement to the contrary. The 1916 Act and the superseded words in the 1894 Act are repealed. The 1940 Act, by the direction to construe it with the Merchant Shipping Acts, 1894 to 1938, extends throughout the Empire.

Railways.—The Minister of Transport took control of the railways on September 1, 1939, by an order under Defence Regulation 69.[9] Receipts were to be pooled and shared up to the total of the guaranteed revenues. The Exchequer took its share above that figure and took the whole surplus if it exceeded the estimated standard revenue fixed by the 1921 Act. The war damage contribution would be a fresh liability for the railways. A new Railways Agreements (Powers) Act enables the controlled railway companies to make agreement with the Minister and with one another, notwithstanding statutory limitations, in respect of the financial aspects of control (4 & 5 Geo. VI, c. 5). By his order the Minister might *inter alia* suspend the London Passenger Transport Board's statutory pooling scheme and alter its financial year.[10]

War Finance.—War Budgets are interim Budgets. The June Finance Act (c. 29), the longest statute of the year, hoists the duties on beer, spirits, tobacco, matches and mechanical lighters, though there is a reduced duty for certain vehicles used in agriculture or in the local collection of refuse. Income tax goes up to seven and sixpence, making, with surtax, a levy of seventeen shillings in the pound on the highest incomes. Surtax begins at £1,500 instead of £2,000. Among other intricate tax adjustments there are new sections about rents and annual payments in respect of land ; relief from Schedule A tax for unoccupied houses is modified. A Limitation of Dividends Bill was projected, but dropped because excess profits tax soars to one hundred (instead of sixty) per cent. of the duly ascertained excess. This tax is mitigated where the figure of past profits does not make a reasonable standard. Amendments of excess profits tax and the national defence contribution deal with " inherently unproductive " assets, losses, and the effect of Dominion tax, amalgamations, inter-connected companies and the investments held by members of groups of companies. The law of estate duty, which cries out for simplification, receives further complication. There are new clauses about purchasing annuities from relations, about gifts by way of creating burdens or releasing rights, and about a deceased's benefits from private companies to which his property has been transferred. Thus the Exchequer labours to defeat the ingenuity of tax evasion. The relief from death duties already available on the death in war of members of H.M. forces is extended to members of the crews of ships and fishing-boats and pilots dying from war operations.

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[8] Admiralty Commrs. v. Valverda (Owners), [1938] A.C. 178.

[9] See S.R. & O. 1939, I, pp. 774, 1179: Cmd. Paper 6168 outlines the arrangements.

[10] See S. R. & O. 1940 (No. 2201) I, p. 518, for the order.

Two months later the Finance (No. 2) Act (c. 48) increases the imposts on beer, wines, " sweets " and tobacco. Income tax rises to eight shillings and sixpence ; surtax and estate duty go up again ; reliefs are pared down. War risks payments may not be deducted in computing taxable income. There is an excess profits tax concession for " trades or businesses consisting in the getting of minerals or oil from any mine, oil well or similar natural source of a wasting nature." The chief new Budget feature is a purchase tax, designed to bring in revenue and also, if possible, to reduce the consumption of goods. The seventh Schedule to the Act catalogues in three columns the goods taxed at the basic rate, those taxed at the reduced rate, and those not chargeable at all. The tax is neatly imposed in a preliminary subsection " on the wholesale value of all chargeable goods bought under chargeable purchases." The draftsman then goes on his orderly way and explains what is wholesale value and what goods and purchases are chargeable. The basic rate of tax is one-third, the reduced rate one-sixth, of the wholesale value. Wholesale merchants and manufacturers of chargeable goods must be registered ; retail traders purchasing on wholesale scale are treated as wholesale merchants. Sellers of chargeable goods under chargeable purchases must state on the invoice the sum due for tax. Neither a customs nor an excise duty, the purchase tax is to be managed by the Commissioners of Customs and Excise, who may make regulations for its administration.

The earlier Budget had drastically increased postal charges, a sad way of celebrating the centenary of the penny post. Some of these increases could be effected by Post Office warrant or regulations ; but the inland registered newspaper rate had a statutory maximum which only a statute could remove. This, one of the changes made by a new Post Office and Telegraph Act (c. 25), involves adjusting subscribers' contracts. The Act raises the rate for press telegrams. Regulations may now prescribe special rates in excess of the statutory maximum for " priority " telegrams and for the transmission of special-service messages, i.e., " greetings " telegrams, delivered " on a special ornamental form and in a special envelope." Telephone charges are increased, but the word " telephone " must not appear ; thus, when the Act speaks of " telegraph contracts," it probably (though perhaps not always) means telephone contracts. This puzzle for telephone subscribers comes from the fact that in 1881 " telegraph " was held, in the Edison Telephone case,[11] to include telephone. The draftsman is obliged to perpetuate his predecessor's mystery-making until the day when the Post Office and Telegraph Acts are at last re-written. A reference in s. 5 to a " local telegraph authority " apparently refers to the Hull Corporation, which operates a municipal telephone service under Post Office licence.

The mechanically propelled vehicle duty is reduced by the Gas and Steam Vehicles (Excise Duties) Act so that conversion from petrol propulsion is not penalized (c. 6). Passenger vehicles are taxed on horse power or seating capacity, goods vehicles on unladen weight. Goods vehicles are now relieved from assessment on the extra weight due to carrying gas-producing plant or cylinders, and from trailer duty where the trailer carries the plant or container. " Gas " is defined afresh.

There are two National Loans Acts. One (c. 3) enlarges the Treasury's rule-making powers under the Act of 1939 (2 & 3 Geo. VI, c. 117) respecting the conversion of securities. In its rules for replacing the four and a half per cent. conversion loan 1940–1944 with a new two per cent. conversion loan 1943–1945 the Treasury had prescribed that holders of the old security who did not apply for repayment by February 8, 1940, should be deemed to have accepted the offer of conversion into the new.[12] Doubts of the validity of this rule are quieted retrospectively. The Treasury is also authorized to prescribe the persons who may apply in the event of a holder's death, absence abroad, mental disease, infancy or other disability. The National Loans (No. 2) Act empowers the raising of money under section 1 of the 1939 Act for the year ending March 31, 1941, and for raising an additional sum of two hundred and fifty millions (c. 23.) Further, notwithstanding any contract in relation to the issue of securities under the 1939 Act, the Treasury is released from any obligation to issue them in the form of bonds to bearer or bond certificates to bearer. Here the object is to tighten exchange control and to prevent the enemy from getting hold of sterling assets in the countries which he has overrun.

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[11] 6 Q.B.D. 244.

[12] See S.R. & O. 1940 (No. 49) I, p. 580 (Rule 2 (2)).

The Securities (Validation) Act disposes of another doubt about the *vires* of delegated legislation. Regulation 6 of the Defence (Finance) Regulations, made at the beginning of the war, required Treasury consent before securities were issued in the United Kingdom. Ordinary mortgages were neither mentioned nor intended to be covered. Later it was decided to bring them under control; an amending regulation declared that, from November 23, 1939, references to securities or to the issue of securities would respectively include references to "any mortgage or charge whether legal or equitable and to the creation of, or increase of the amount secured by, any such mortgage or charge."[13] Somebody suggested that mortgages had been included all along. The Act (c. 55) declares that they had not. It goes on to enact that no security issued before November 23 shall be invalid by reason that the Treasury had not consented to its issue.

The annual Appropriation Acts and Consolidated Fund Acts follow the accustomed pattern. An Isle of Man (Customs) Act (c. 49) assimilated the insular taxation, as usual, to that of the United Kingdom.

Local Authorities' Revenue.—The Remission of Rates (London) Act (32) temporarily permits metropolitan local authorities to reduce or remit rates on account of poverty. Authorities outside London already could do so by virtue of section 2 (4) of the Rating and Valuation Act, 1925.

Employment.—The Trade Boards and Road Haulage Wages (Emergency Provisions) Act gives the Minister of Labour (nowadays the Minister of Labour and National Service) temporary powers to modify or suspend enactments by regulation, in order to adapt them to war-time conditions (c. 7). This was useful for reducing the quorum of a trade board meeting, for instance, or cutting the two months period of public notice necessary before rates of wages could be submitted to him for confirmation. As regards road haulage wages, a statute contemplated the licensing of vehicles and their drivers; the Minister of War Transport (as the Minister of Transport is temporarily called) found it preferable to give war-time permits; he needed power to modify the law by an adapting regulation. The Act is careful to insist that the regulations shall not "create any new offence or increase the penalty for any offence."

A Royal Commission (with Sir Hector Hetherington as chairman) had reported in 1939 on many proposed reforms in the law of workmen's compensation. Stopping short of these, a Supplementary Allowances Act (c. 47) increases the weekly payments by a flat rate of five shillings, with an added sum for children under fifteen. The county court registrar can now refuse to record lump-sum agreements (an attractive but not always prudent alternative to weekly payments) not only because the proposed sum is inadequate but also on other grounds. There is still no linked statutory provision for rehabilitation or prevention of accidents.

The Workmen's Compensation and Benefit (Byssinosis) Act (c. 56) copies the plan already developed for silicosis compensation. Certain "industrial diseases" have been treated as "statutory accidents" for the purpose of qualifying a man for compensation. Industrial medicine has now taken note of byssinosis, a condition of the lungs attributable to inhalation of fine particles of cotton dust. Difficulties of diagnosis make it hard to be sure that its onset is occupational in an individual case. As recommended by a Home Office committee (presided over by Sir David Ross) on compensation for card-room workers, there is to be a compensation scheme for the cases where the workman dies or is disabled from byssinosis after employment aggregating twenty years in cotton card-rooms or similar work. A special medical board will examine patients and give certificates qualifying for payment. A benefit scheme can also be made for men in the cotton industry who are already disabled, the benefit being by way of supplement to the National Health Insurance Acts benefits. The new Act applies to male workers only.

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[13] See S.R. & O. 1939 (No. 1620) I, p. 873.

Truck Acts, preventing the workman's wages from being paid in goods or anything other than current coin, take us back a century or more. In Pratt v. Cook [14] the plaintiff had served for many years under a written contract whereby he received fifty-three shillings a week and his daily dinner and tea, these meals being agreed to be worth ten shillings a week. This, after much judicial difference, was held an infringement of the Truck Act, 1831, and his firm was ordered to pay the plaintiff four hundred pounds because the meals which he had consumed had unlawfully been received in lieu of wages. Had his contract been for sixty-three shillings a week with a deduction of ten shillings for dinners and teas, it would have been lawful enough. In one sentence half a page long a new Truck Act (c. 38) bars further claims of the kind, there being many similar contracts in the business world. Thus Mr. Pratt wins a solitary victory. The law is not changed. The Truck Acts, as interpreted in the courts, lay an absurd emphasis on manual labour ; they do not touch a grocer's assistant, a railway guard, an omnibus conductor, or, of course, a domestic servant. Modernization is overdue, but legislators have been content to let sleeping dogs lie.

State Help.—Local authorities had been supplementing the statutory system of old age and widows' pensions by individual grants, and had urged that this burden, amounting to a fourpenny rate on the average in England, should be borne by the State. After inquiry a new Old Age and Widows' Pension Act (c. 13) emerges. A woman, if she herself is insured or her husband has qualified for his pension, will now get the old age pension under the Contributory Pensions Act at sixty instead of sixty-five. The existing contribution was due to be raised by twopence for men and one penny for women in 1946, with a further increase in 1956. It now goes up by twopence for men and threepence for women ; the employer pays one penny more. The insured woman will go out of health insurance or unemployment benefit at sixty ; there are transitional provisions for five years to mitigate hardship. The approved societies benefit by the change ; the surplus reserves thus released go to a special fund which will pay for sickness benefits in this five-year period ; the residue will ultimately be disposed of as Parliament may determine. Part II of the Act creates " supplementary pensions " payable by the Exchequer where it is proved " in the prescribed manner " that the pensioner, being resident in Great Britain, is in need of one. They are not flat-rate increases ; there is still the controversial element of some form of means test embracing the resources of the household, discreetly relegated to a schedule where section 38 of the 1934 Act is applied with modifications. The Unemployment Assistance Board, consequently re-named the Assistance Board, will administer these supplementary pensions " in such manner as may best promote the welfare of pensioners." Rules will provide for payment through the Post Office. Thus the pensioner will not apply to a poor-law authority for out-door relief ; the poor-law authority must not grant it except in the event of sudden or urgent necessity. In special cases, such as extravagance or infirmity, a pension can be issued to someone other than the pensioner in order to protect the beneficiary or his dependants.

A new Unemployment Insurance Act (c. 44) increases benefits. The rise in agricultural wages and war-time earnings has to be borne in mind. The " blackcoated " worker with a yearly salary of two hundred and fifty to four hundred and twenty is brought in and will thus have his own security against post-war unemployment. After one year the new class will also come into the unemployment assistance scheme. The " continuous period of unemployment," the gap during which a man must be out of work before benefit is available, is reduced from three days to two.

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[14] [1939] 1 K.B. 364.

Societies.—The Societies (Miscellaneous Provisions) Act (c. 19) deals with trade unions, friendly societies, building societies, industrial and provident societies and others. The Chief Registrar of Friendly Societies may, on a society's application, give a " direction " relaxing its rules or its statutory obligations as to periodical meetings at prescribed times, intervals or places, as to appointing or continuing its trustees or officers, and as to the machinery for amending its rules. The direction may also allow a committee of management, or even a subcommittee, to exercise functions normally exercisable only by a full meeting. The relaxation may, in proper cases, be retrospective. In registered friendly societies the central body is to have like power to modify the rules of a registered branch ; the statutory quinquennial valuation is postponed during the emergency. The period within which a registered industrial or provident society can (under the Prevention of Fraud Act, 1939) convert itself into a registered company without paying stamp duties is extended. Some sections with permanent effect facilitate the amalgamation of building societies and trade unions and the transfer of their engagements. The officials of a small but wealthy building society might be tempted to transfer its engagements to a larger one, with excessive compensation to themselves for loss of office as part of the bargain. To avert or check these scandals, such transactions must in future have the consent of the registrar. Members of a friendly society, if engaged in war service, are not to lose their membership or benefits, even if they fail to keep up their contributions ; but the right to the benefits is suspended during the default. Friendly and other societies may make rules for setting up and administering funds for the purchase of defence bonds or national savings certificates.

The Industrial Assurance and Friendly Societies (Emergency Protection from Forfeiture) Act relieves people who have insured their lives from the risk that they might lose the benefit of the policies if war-time circumstances prevented them from keeping up their premium payments (c. 10). Protection from forfeiture is given where the policy does not exceed £50: this sum is the statutory limit on policies taken out to cover funeral expenses—a common object of industrial assurance. Business of this kind is largely in the hands of registered friendly societies ; it may be industrial assurance or life assurance conducted by house-to-house collection or insurance on life by a specific or separate premium with a non-collecting society. Without technical distinctions the society will now have to notify the policy-holder of the arrears and inform him of his right to apply for protection if the default is due to " circumstances arising directly or indirectly out of the war." The policy will not cease merely for non-payment of premium. The company or society will indorse the policy accordingly as a " protected " one ; if it refuses protection, the holder can appeal to the Industrial Assurance Commissioner, who will make an equitable decision. When premiums remain unpaid on the protected policy the sum assured will be reduced, or, in the case of certain endowment policies the maturity will be postponed. If the policy-owner is afterwards able to pay his premiums, the company or society can appeal to the Commissioner to terminate the protection. The Act has a carefully phrased retrospectivity.

War Charities.—War charities were regulated in 1916 by an Act applicable to concerns connected with the then existing war. Street collections were regulated by an Act of 1916 and house-to-house collections by one of 1939. A new War Charities Act (c. 31) widely defines " war charity " so as to include existing or future charities connected either with the last war or the present war or " any war or act of aggression " past, present or future, to which an Order in Council may apply the Act. No appeal can be made to the public unless the charity is registered or exempted from registration and unless the charity has given its written approval. " Appeal " includes asking for gifts or subscriptions in cash or kind, or promoting a bazaar, sale, entertainment or exhibition. The grounds for refusing registration—want of good faith, maladministration, the inadequacy of the sum appropriated to the object, the retention of excessive remuneration or reward, or the failure to give proper information—may be compared with the grounds for refusing licences under the House to House Collections Act, 1939 (2 & 3 Geo. VI, c. 44, s. 2 (3)). There is an appeal to the Charity Commissioners, who, as in the 1916 Act, may decide whether a charity is a war charity. Registered charities must comply with prescribed conditions as to management, record of meetings, accounts and independent audit, separate banking of funds, and inspection. The Commissioners may make regulations with the approval of the Secretary of State and may remove a charity from the register or withdraw its exemption. On such removal or withdrawal, or if the Commissioners " are satisfied that the objects of any war charity have failed altogether or have become obsolete or useless," the money in the bank or elsewhere may be impounded or dealt with, or a scheme of future regulation may be established.

Administration of Justice.—A Courts (Emergency Powers) (Amendment Act) (c. 37) alters the Act of 1939. The latter allowed the courts to restrain the enforcement of remedies available to judgment creditors, landlords or mortgagees where it seemed that the debtor's inability to pay was due to circumstances directly or indirectly arising out of the war. Some courts withheld leave to enforce the remedy but attached a condition that future periodical payments must be punctually made. The new Act forbids this condition ; a court will be free to consider the actual circumstances on any further default without its hands being tied. There had been doubt whether the judge should look at all the debtor's different liabilities or only at the particular claim before the court. The Act expressly authorizes the judge to " take account of other liabilities whether present or future." There are other minor amendments.

It may be recalled that in 1921 the English courts held the Indian legislature not competent to confer on Indian courts the jurisdiction to dissolve marriages where the parties were not domiciled in India.[15] This uncomfortably challenged many divorce decrees granted under the Indian Divorce Act of 1869. Parliament passed a short validating Act in 1921, and in 1926 gave a limited and selective jurisdiction to Indian High Courts to decree dissolution of marriage, etc., for British subjects domiciled in England or Scotland.[16] The 1926 statute stipulated that the grounds of such decrees should be those on which a decree might be granted by the High Court in England " according to the law for the time being in force in England," but its text elsewhere used language appropriate only to the grounds existing in England in 1926. What was the effect of Mr. A. P. Herbert's Matrimonial Causes Act, enacted at Westminster in 1937? A new Indian and Colonial Divorce Jurisdiction Act (c. 35) now makes clear that the Indian courts will be governed by the Herbert Act. Incidentally the decree granted in India or elsewhere under the 1926 Act must now be registered in the High Courts of England and Scotland by these courts and not by the parties to the oversea divorce. One wife, it was said, having been divorced abroad, and having contracted a second marriage of which she presently tired, sought to repudiate the latter on the ground that she had not taken steps to register the original decree in Britain.

The Law Reform (Miscellaneous Provisions) (Scotland) Act is an omnibus measure (c. 42). Provision for contributions among joint wrongdoers recalls an English law reform of 1935. Apprehension or imprisonment is restricted as a remedy for non-compliance with a decree *ad factum praestandum*—which an Englishman may perhaps translate as specific performance. The rights of adopted or illegitimate children to sue for *solatium* for the death of a relative are recognized. Agreement to prorogate (or agree to submit to) the jurisdiction of a particular sheriff court are to be void. Surviving husbands, where their wives die intestate without lawful issue, are to have the same rights as surviving widows under the Intestate Husband's Estate (Scotland) Acts. It is declared that the King's and Lord Treasurer's Remembrancer has the right to uplift and ingather an estate falling to the Crown as *ultimus haeres* in England as in Scotland. Another section deals with international conventions affecting the jurisdiction of Scottish courts. Another allows the conviction and sentence of a person who has pled guilty to an offence other than that charged in the indictment, provided that the court is competent to try such offence and that the prosecutor accepts the plea. Another authorizes the acceptance of a plea of guilty, if properly authenticated, in the absence of the accused. Lastly the Act dispenses with the reading over of the complaint to the accused at the first calling of the case, if the complaint has been served on him or if he has legal assistance in his defence.

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[15] Keyes v. Keyes and Gray [1921] P. 204.

[16] See 11 & 12 Geo. V, c. 18, and 16 & 17 Geo. V, c. 40.

The Legal Profession.—The Solicitors (Emergency Provisions) Act enables the Council of the Law Society, the representative organization of the solicitors' profession, to relax rules (c. 15). It may grant exemption from the intermediate examination, may let a candidate come up for final examination earlier than the present rules prescribe, and may reckon "national service" as service under articles of apprenticeship, provided that there are at least two years of actual articled service. "National service" includes (*a*) service with the armed forces during the present emergency, (*b*) detention during that period as a prisoner, military or civil, in an enemy country, or internment in an enemy or neutral country in consequence of any war in which His Majesty may be engaged, and (*c*) "any public service connected with or consequent upon the present emergency and being of a character approved by the Registrar." Attendance at a course of legal instruction may, at the Council's discretion, count as service under articles. The award of prizes, medals and scholarships may be suspended during the war. The powers of the Master of the Rolls, who has special jurisdiction over the profession, may be exercised during the emergency by a High Court judge whom he appoints in writing for the purpose.

Land Registration.—Under an Act of Queen Anne anyone acquiring an interest in land in Middlesex could protect his title by registering a memorial of the deed in the Middlesex Deeds Register. This record of individual documents did not really show how the land affected by a particular conveyance was geographically related to other land. Modern law has evolved a system of land registration which, in effect, provides a map of the area with all details of ownership or change of ownership over each piece of land. By an Order in Council under section 125 of the Land Registration Act, 1936, closed the Middlesex Deeds Register to fresh entries but left it open for investigation of title. A new Middlesex Deeds Act (c. 34) closes the register for all purposes ; so the county now no longer uses a mixture of the old and new systems. If conflicting claims arise, the party aggrieved will be indemnified for loss (but not if it be caused or substantially contributed to by his own act, neglect or default) from public funds. A certificate of the registration of a memorial of an instrument in the Middlesex Deeds Register, officially endorsed on the instrument, will be conclusive evidence, for all purposes, of the facts certified.

Scottish Laws.—Besides the Scottish enactments already mentioned concerning marriage, war service and farm wages, there is a short Scottish Fisheries Advisory Council Act (4 & 5 Geo. VI, c. I). The functions of the quasi-independent Scottish departments of education, health, agriculture, prisons and fisheries became the direct and exclusive responsibility of the Secretary of State for Scotland in 1939. The Fisheries Board for Scotland disappeared (with other departments) in this process, but he was given a Fisheries Advisory Council of not more than twelve members. The limit is now removed in order that the many fishing interests in Scotland may be properly represented among its members.

Mental defectives in Scotland are detained either by judicial order or at the instance of parents or guardians or (with the parents' or guardians' consent) local authorities. The order operates for a year. The General Board of Control, if it thinks fit, can extend the order and continue the detention ; if it does so, it must notify the defective and the parent or guardian or others concerned. There is a right of appeal to the sheriff within fourteen days. In the case of *Innes* (*or Page*) *v. General Board of Control*[17] notice had been sent, but, as the addressee had changed her residence, it came back through the dead-letter office. The Court of Session held that the original order had lapsed. The Mental Deficiency (Scotland) Act, 1940 (c. 8), allows detention to be continued in future by extending the order without intimation ; but the Board must tell the defective and must take such steps as are reasonably practicable to bring to the notice of the parent, guardian, etc., the order or decision and the right of appeal. The former fourteen-day limitation on the right to appeal is abolished ; but appeals must not be made more often than once in two years. In 1938 Parliament had to meet a difficulty, disclosed by successful *habeas corpus* proceedings in England, where an order for the continued detention of a defective had not been made punctually on the very day when the previous order expired. The English authorities were allowed a further month after expiration in which to make a continuing order in future.[18] The new Scottish Act meets a like administrative difficulty in Scotland but in a slightly different way. The Scottish authorities may reconsider the patient's case and make a valid continuing order during the month before the date of expiration.

Local and Private Acts.—There are forty-four Local Acts and no private Act in 1940. An Ely Cathedral Canonries Act, as its preamble explains, disannexes and suppresses the canonry which has hitherto been held with the Regius Professorship of Divinity in Cambridge University. The Jacobean Hospital of St. Mary Magdalene at Newcastle-upon-Tyne has an Act mainly concerned with the mastership. The Royal Society for the Prevention of Cruelty to Animals obtains power to purchase lands for its activities (but not as an investment) and to hold them without licence in mortmain. In its usual General Powers Act the London County Council takes over ponds on Hampstead Heath and elsewhere originally vested by a statute of Henry VIII in the City of London under a now long discontinued project of water supply. Two other sections illustrate the recourse to Parliamentary sanction to avert the restrictive influence of the doctrine of *ultra vires*. The L.C.C. is authorized to contract " for the production of a work of art " and to buy it when completed. Previous statutory power to arrange facilities for Londoners' recreation is enlarged to cover the employment of " instructors or organisers " at open spaces. Money may be spent on capital account, or lent to metropolitan boroughs, for war damage or other war measures. Other local provisions of an emergency nature elsewhere restrict borrowing or allow more time for the completion of statutory programmes ; at Coventry there are emergency amendments of the law under which persons are admitted to the freedom of the city (the use of italics in the schedule to the new Act will be observed) ; and, in view of increased factory accommodation, there are special plans for the water supply.

Almost all Local Acts of 1940 concern the activities of town or county councils or of public or private undertakings concerned with gas, electricity, water or transport facilities. The Aberdeen Corporation, Clyde Lighthouses Trust, and

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[17] Session Cases 1939, 182.

[18] See the Winterflood Case [1938] 2 K.B., 366, and the Review of Legislation, 1938, pp 7, 8.

Fife County Council set England an example by consolidating their local laws even in war-time.

Church Assembly Measures.—The title of the Benefice Buildings (Postponement of Inspections and Repayment of Loans) Measure explains its scope. In peace-time the parsonage house and buildings belonging to a benefice must be inspected every five years and the necessary repairs done; the corporation of Queen Anne's Bounty finds the money from the accumulation of contributions annually paid by the incumbent. The postponement does not affect the parson's liability for annual payments based on the last assessment. Queen Anne's Bounty may still lend money for repairs, postponing repayment of capital or interest till reassessment takes place after the war. The other Measure enacted under the enabling statute of 1919 deals with ecclesiastical dilapidations (chancel repairs), and is not entirely a war-time law. The Tithe Act gave Diocesan Dilapidations Boards, in trust for the parochial church councils, the sum needed for chancel repair where lay impropriators were liable to repair. It was necessary to give specific power to use part of the capital (as well as the interest) for immediate renovation. Enough income must be left to meet the cost of insurance and probable future repairs.

Delegated Legislation.—The Statutory Rules and Orders registered in 1940 under section 3 of the Rules Publication Act, 1893, numbered 2,223, against a total of 1,946 for 1939. Those of a public general character still in force at the end of the year are officially published in two volumes, arranged as usual in the alphabetical order of their subject-headings. But there is one exception to this sequence. The largest single topic, " Emergency Powers (Defence)," consisting of the regulations and orders which flow from the Emergency Powers (Defence) Acts, occupied over 1,500 pages. To avoid splitting this subject-heading between two volumes, it is taken out of its alphabetical order and is printed by itself to form Volume II, with a separate index. Volume I will be found to contain many rules and orders made under the other emergency statutes ; for a few subjects (aliens, for instance, or war risk insurance) it may be necessary to refer to material in both volumes.

Glancing through Volume I, we see subsidiary laws about civil defence and national service, price regulation, trading with the enemy, excess profits tax and purchase tax, life-saving appliances on ships, rules of procedure for various courts, regulations for war charities, and Orders in Council altering the constitution of chartered and other bodies such as the General Medical Council, the Traffic Commissioners and the Scottish Universities. Here too are the orders for the appointment and functions of the Minister of Aircraft Production and the Minister of Works and Buildings. An appendix contains the text of the prerogative orders for reprisals against German and Italian commerce and for regulating the system of " navicerts."

Volume II begins with the 1940 amendments of the codes of Defence (General) Regulations and Defence (Finance) Regulations. In the general code there are new offences—corruption of public morale (2 C), publication of disturbing reports (23 BA), desertion from ships or joining a ship in a state of drunkenness (47 A). In the case of looting (38 A) or forcing a safeguard (1 B) the regulations no longer hesitate to say that the offender shall be liable to suffer death. Regulation 18 B, discussed in the courts but clearly *intra vires,* is amended and fresh grounds for detention are added. A new 18 AA provides for winding up organizations subject to foreign influence or control or conducted by persons in sympathy with the system of government of any enemy country. The powers of the Home Office over factories are transferred to the Minister of Labour and National Service (58 B). Regulations about fire-watching (27 A), control and management of public shelters (23 AB), restrictions on camping (14 B), closing of night-clubs (42 C), and suspension of restrictive covenants in tenancy agreements against keeping pigs, hens and rabbits (62 B) illustrate other aspects of the war. Influx of population may be restrained in certain areas (68 C) ; direction posts or signs containing place-names must be removed, obliterated or concealed lest they help the enemy (4 B) ; there is power to deal with animals, including stray dogs, and to slaughter dangerous or injured animals in the event of hostile attack (25 A, 25 B, 79 B). New regulations control employment and require persons to continue in police or civil defence services. One seeks to avoid strikes and lock-outs (58 AA). Others control newspapers and presses (2 D, 94 B), motor vehicles and motor fuel (19 A, 19 B), building operations (56 A), and so on. Aliens are allowed to serve under the Crown with less restriction (60 D), and foreign doctors may be temporarily entered in the Medical Register for practice in Britain (32 B).

Besides the general code and the finance code there are other codes of regulations for the administration of justice, the armed forces, bodies corporate and trade unions, building societies, cinematograph quotas companies, encouragement of exports, evacuated areas, local defence volunteers (now the Home Guard), local government in Scotland, Parliamentary Under-Secretaries, the Petroleum Department, savings banks, summer time, trading with the enemy, war risk insurance, and war zone courts. Their effect upon the statute book is disturbing. The Administration of Justice Regulations perhaps deserve special notice. They provide for altering the arrangements for circuits and quarter sessions and the sittings and jurisdiction of justices, for the use of statutory declarations before examining justices and the use of depositions at trials on indictment ; they suspend the right of peremptory challenge of jurors in treason and felony cases ; they allow criminal trials and inquests to proceed notwithstanding a juror's death or incapacity.

It is tedious to catalogue these temporary changes in the law. Besides the regulations (the children of the Emergency Powers (Defence) Acts) there are the orders made under the regulations. These grandchildren range from Agriculture to Wild Birds ; the heading " Food Control " takes up two hundred and fifty pages, and the Ministry of Supply orders occupy nearly twice as many. These interferences with the old freedom of social habit, trade and contract are in some sort a derogation from the Rule of Law. We know the conditions of its restoration.

1941

Forty-nine Public General Acts were passed in 1941.[19] No progress is made in improving the statute book by way of the consolidation of enactments. Subsequent references to the topic of Parliamentary disqualification are evidence of the waste of public time caused by refusal to modernize the law. We may here note, however, the repeal of the medicine stamp duties. This eliminates statutes, once judicially described as " a mass of confused verbiage," which dated back to 1802 and contained queer lists of earlier than Victorian elixirs, balsams and potions.

Many of the 1941 Acts are temporary, enacted either for the uncertain " emergency period " or merely for twelve months at a time. The Emergency Powers (Defence) Act, 1939, parent of all the codes of Defence Regulations, requires annual continuance.[20] Parliament is prolonged for a seventh year (c. 48), the draftsman getting his result by temporarily restoring the Septennial Act. Local government elections and boundary adjustments in Great Britain are suspended for a further twelve months (c. 49): the revision of the amount of the Exchequer grants to local authorities is also held over (cc. 33 and 45); so is the inquiry into the financial working of air-raid precautions which was due to be made after three years' experience (c. 10).

Among minor matters of legislative technique we may note that the draftsman of the Finance Act uses for his paragraphs an alphabetical sequence which jumps from (*h*) to (*j*). The omission of (*i*) removes the risk of that letter being misprinted as the number (i).

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[19] 4 & 5 Geo. VI, cc. 6–50 and 5 & 6 Geo. VI, cc. 1–4.

[20] See footnote 2 to p. 1 above.

Constitutional.—Apart from its prolongation (already mentioned) the House of Commons twice illustrates the impact of war conditions upon the Succession to the Crown Act, 1707. Obsolete suspicions of the personal influence of monarchy, embodied in this formidable and frequently embroidered statute, cause any member who accepts an office of profit under the Crown to vacate his seat. Mr. Malcolm Macdonald, M.P., when appointed High Commissioner in Canada, was reluctant to sever his ties with his constituents. Sir Stafford Cripps had gone as ambassador to Moscow, Sir Samuel Hoare to Madrid. Erskine May does not regard the office of ambassador or other foreign minister as a disqualification for membership of Parliament, but the general legal position was deplorably uncertain. A classic report by the Select Committee of which Sir Dennis Herbert was chairman recommended the repeal, as soon as practicable, of the 1707 Act with all its incrustations. Meanwhile a temporary improvisation (c. 8) averts disqualification where the First Lord of the Treasury certifies that the appointment of an M.P. to any office or place of profit under the Crown is " required in the public interest for purposes connected with the prosecution of any war in which His Majesty may be engaged." The second statute is a personal relief. Mr. Arthur Jenkins, M.P. for Pontypool, had accepted an invitation from both employers and employees to be chairman of an arbitration board for a munition factory. The post carried no salary, but the chairman could (though Mr. Jenkins did not) receive from public funds a small fee for each sitting. By undertaking this patriotic duty Mr. Jenkins forfeited his seat and exposed himself to heavy penalties. The usual Indemnity Act is passed to protect him (5 & 6 Geo. VI, c. 1).

The Isle of Man has natural advantages as a place of detention in emergency. Enemy aliens could be interned there under prerogative powers without statutory authority ; non-enemy aliens detained under Article 12 of the Aliens Order could not ; nor could British subjects detained under regulation 18b of the Defence (General) Regulations, because the parent Act is primarily limited to the United Kingdom. The Isle of Man, though included by the Interpretation Act in the expression " the British Islands," is not part of the United Kingdom. The Isle of Man (Detention) Act now gives the needed authority (c. 16), adding the hallowed and helpful words that, while detained there or while travelling thither or therefrom, persons are " deemed to be in lawful custody."

Imperial and International.—The temporary Migration of Children (Guardianship) Act meets representations from Canada and the United States that those countries could otherwise not make themselves responsible for the proper care and welfare of some 3,500 young people from Britain whose hosts they had generously become (c. 23). Under the local law of the two countries certain steps for the child's welfare can be taken only if sanctioned by the child's legal guardian ; without this sanction, for instance, a surgeon operating for appendicitis might be liable to prosecution. The Act enables the Secretary of State to appoint as guardians of children sent overseas any authorities, societies or persons ; the parents are to be consulted in the case of future emigrants. There is adequate power to revoke an appointment.

Certain general elections in India and Burma are postponed (c. 44).

The presence in Britain of Allied Governments and associated national authorities such as the Fighting French explains the Diplomatic Privileges (Extension) Act (c. 7). Diplomatic envoys enjoy immunities from local jurisdiction ; their residences are protected and they have fiscal advantages. International law may give full immunities to the heads of foreign States in Britain ; the new Act widens the field but confines its benefits to the senior and more responsible officials who are named in lists published officially in the London and other gazettes.

The remarkable Allied Powers (Maritime Courts) Act (c. 21) authorizing the Allies to establish courts of justice in the United Kingdom has already been discussed in the Society's *Journal* by Lord Simon.[21]

Armed Forces and Civil Defence.—In the last war a new s. 57A of the Naval Discipline Act allowed an officer to be tried by a disciplinary court, instead of by a fully formal court-martial, when charged with specified minor offences in wartime. Now by a fresh amendment (c. 29) offences against s. 9 of the 1866 Act (deserting his post, sleeping upon his watch, or neglecting to perform the duties required of him) can be sent to a disciplinary court. These breaches of discipline can obviously be of major as well as minor significance ; the Commander-in-Chief can decide which of the two tribunals he will convene.

A few minor amendments accompany the annual prolongation of the Army and Air Force Acts (c. 17).

The Marriage (Members of His Majesty's Forces) Act removes difficulties arising when the call of duty suddenly transfers men and women to distant stations or sends them overseas (c. 47). In the ordinary case of marriage by banns in England banns are called in the parish churches of the parishes where the two parties live ; marriage can then be solemnized in either church within three months. The Act extends the period to twelve months. It also allows the ceremony to be performed somewhere outside those parishes, and either in England or Scotland, if a certificate from a party's commanding officer states that, owing to the exigencies of His Majesty's service, he or she cannot go to the ordinary parish church. The Registrar-General may issue a marriage licence immediately (instead of waiting for 24 hours as the Act of 1856 requires) where one of the parties is a member of the forces. This will help a man who is ordered abroad at short notice. The classes of women to be treated by the Act as members of H.M. Forces are described in a schedule.

The National Service (Armed Forces) Act of 1939 has two extending statutes in 1941. They drop the words " Armed Forces " from their short titles because the first of them (c. 15) makes it possible to allot to compulsory civil defence service the men who are already liable for compulsory military service under the 1939 Act. Similar liability is imposed on men registered as conscientious objectors on condition that they undertake work under civilian control. The consequences of refusing medical examination are revised: the £5 penalty is stiffly raised and there is a power to impose imprisonment. The case of the conscientious objector who does not comply with the conditions in which he is registered may be referred to a local tribunal ; a prosecution, even for wilful disobedience, requires the consent of the Minister of Labour and National Service. Among other clauses not unsympathetic to an objector, non-combatants may be transferred from the military service register to the register of conscientious objectors. Machinery is provided, on the other hand, whereby the objector can apply to be registered for military service. This Act did not apply to women. The National Service (No. 2) Act, however, declares all persons of either sex liable to national service " whether under the Crown or not, and whether in the armed forces of the Crown, in civil defence, in industry or otherwise " (5 & 6 Geo. VI, c. 4). This is more definite than the Emergency Powers (Defence) Act of 1940, which required all persons, irrespective of age or sex, to " place themselves, their services and their property at the disposal of His Majesty." The No. 2 Act of 1941 extends the age limit from 41 (laid down in the Act of 1939) to 51. In extending the National Service Acts to women, it exempts married women (not living apart from their husbands under a decree or order of a court) and women who have living with them a child under 14. No woman called up for service is to be required " actually to use any lethal weapon " unless she has signified in writing her willingness to do so.

The Fire Services (Emergency Provisions) Act (c. 22) applies lessons taught by the enemy's bombing of our cities. In peace-time there were some 1,400 fire brigades in Britain, each under a separate local authority. Unified national control is now introduced—a temporary measure which is likely to be permanent. S. 2 (1), criticized as tortuously referential, enables the Act to be amended by Defence Regulations. Thus, as framed, the Act is not to apply to Northern Ireland ; but the Defence (National Fire Services) Regulations vary this limitation so that a force can be sent from Great Britain to Northern Ireland, the Isle of Man, or ships or vessels at sea.[22]

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[21] *Journ. Comp. Leg.* (Feb., 1942), vol. xxiv, p. 1.

Social Security.—Put forward as an interim measure, the National Health Insurance, Contributory Pensions and Workmen's Compensation Act (c. 39) concedes improvements more easily won when war relaxes the purse-strings. In the health insurance system the rates of sickness and disablement benefits are increased by 3s. weekly ; health and pensions insurance is extended to non-manual workers earning £420 a year, the previous limit having been £250 ; the Workmen's Compensation Acts are applied to non-manual workers earning between £350 (the previous limit) and £420.

Controversy over the " household means test " is removed by the Determination of Needs Act (c. 11). A workman within the Unemployment Insurance Acts has rights, if he becomes unemployed, irrespective of his means. When those rights were exhausted by lapse of time and he came to the State for further assistance, it was not perhaps unreasonable to say that, if he was already provided for from other sources, the taxpayers need not be taxed to assist him. In ascertaining his financial position the income of the whole household was taken into account ; family solidarity suggested that relatives would, and indeed should, help one another. In practice, it was said, family disunion resulted ; moreover, the intrusive examination of earnings was resented. The new Act abolishes the household means test and substitutes a scheme embodied in rules scheduled to the Act and in regulations to be made by the Assistance Board which require approval by resolution of Parliament. The Act also, by defining " war savings " and exempting a fixed amount of them in the computation of resources for the assessment of needs, encourages the small investor to subscribe for savings certificates and defence bonds without any fear that his patriotism might some day prejudice his application for assistance.

Agriculture.—The two Agriculture (Miscellaneous Provisions) Acts of 1940 are followed by another in 1941 (c. 50). It carries on the 1937 land fertility scheme by continuing the subsidy on lime, but drops the subsidy on basic slag. The Minister's power to make grants for drainage is developed so that he can also assist the provision of water supply for cattle in pastures. Besides various improvements for upland and fenland farming there is a significant new power for the Minister to acquire, by agreement or compulsion, any land requisitioned by him (or by a War Agricultural Executive Committee) if the land was previously uncultivated or was not cultivated according to the rules of good husbandry, and if the Minister certifies that its value is (or will be) substantially increased by the work done to it after requisitioning. The object is that of " preserving for the Crown the benefit of that increase in value." Where land is thus acquired the Minister may, within five years after the end of the war period, offer it back to the original owner unless inquiry shows that the result would be a failure to farm the land properly. If the original owner is not a purchaser, the Minister may resell " to whom and in what manner he thinks fit." Finally the Minister may make orders for the prevention of bee diseases after consulting an advisory committee. This provision replaces Regulation 62 BB of the Defence (General) Regulations.

Unlike England in her legislative arrangements for land drainage, Scotland has no drainage or catchment boards, no body charged with the duty to maintain arterial drainage systems or protect land from flooding. A new Land Drainage

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[22] See S.R. & O. 1941 (No. 1133) II, p. 182.

(Scotland) Act authorizes the Secretary of State for Scotland to initiate schemes for these purposes on a report from the local " agricultural executive committee." The cost of the contemplated operations must be reasonable " having regard to the benefits to agriculture which would accrue," and must not exceed £10 per acre of the agricultural land thus improved or protected. Draft schemes must be advertized ; unsettled claims and objections will go to the Scottish Land Court, but the schemes will proceed without waiting for final settlement of questions of betterment and compensation (c. 13).

War Damage Compensation.—For the legislators and the draftsman war damage was the biggest and toughest job of the year. Early in the war the Government had admitted it to be a communal responsibility, but there were no precedents and, as the Weir Committee reported, no materials for actuarial estimates. Part I of the lengthy but logically framed War Damage Act (c. 12) constitutes a War Damage Commission to supervise a compulsory scheme for compensating war damage to buildings, land, fixed plant and fixed machinery. The property owner must contribute ; his money is collected by the Inland Revenue in five annual instalments of 2s. in the pound on the net income-tax assessment (Schedule A), or, failing that, on the net annual value for rating purposes. There is no liability upon public utility undertakings such as railway, canal, harbour, gas, electricity, water, or drainage concerns ; they are not subject to the ordinary Schedule A valuation. Agricultural property, and land used for open-air recreation, will pay only 6d. in the pound ; charities for relief of poverty, the treatment of sickness or the advancement of religion are exempt ; charities for the advancement of education, learning, science or research pay one-third of the 2s. scale. If enemy action has already rendered property uninhabitable or unfit for use, no contribution is required. The extent of the national liability being incalculable, the State assumes liability for any deficiency up to the amount of the total of all contributions, thus doubling, so to speak, the contributor's stake. If this duplication proves inadequate, the Treasury can increase the number and proportion of instalments of contributions ; a Treasury order for this purpose requires the approval of the House of Commons. Conversely, if expected receipts exceed expected payments, Parliament will be able to reduce the demands on the contributory properties.

Compensation can be paid in two ways—as a " cost-of-works " payment (where repair is worth while) or a " value " payment based on prices current on March 31, 1939. The War Damage Commission can pay additional sums for temporary works reasonably executed to make good the damage, and can also make advances on account (up to £800) where a claimant has lost his home or his business premises. The community reserves some control over the disposal of the payments, inasmuch as the Treasury must give directions to the Commission for securing that Part I shall be carried out " in conformity with the public interest as respects town and country planning, the provision of housing accommodation, the development of industries and services and of agriculture, the preservation of amenities, the consumption of supplies of building materials for the time being available, the building requirements of persons engaged in work of public importance and such other matters as may be prescribed." Part I speaks of a " risk period " running from the outbreak of war to the end of August, 1941 : later in the year a short Act (c. 37) prolongs its arrangements for a " second risk period " of a further twelve months.[23]

Part I of the big Act of 1941 deals with land. Part II deals with goods and contemplates two schemes, elaborated by orders published in the Statutory Rules and Orders Series [24], to be administered by the Board of Trade. First, the " business scheme,'' compulsory with minor exceptions, covers movable property used for business or professional purposes. Insurance companies and Lloyd's will issue policies on the full capital value as agents of the Board. Secondly a voluntary " private chattels scheme " will give the householder free insurance up to £200 ; another £100 is added if he is married, and £25 for each child under 16. Part III of the Act makes some amendments to the " commodity insurance scheme " contained in the War Risks Insurance Act of 1939. The miscellaneous sections in Part IV include provision for determining disputes in the High Court before specially nominated judges.

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[23] An amending Act in 1942 repeals this provision for a second risk period and extends the risk period to August 31, 1942, and thereafter until terminated by a Treasury order approved by resolution of the House of Commons : see 5 & 6 Geo. VI, c. 28, s. 1.

[24] See S.R. & O. 1942, 1, pp. 1186–1211.

There was doubt (partly perhaps because the Trustee Act of 1925 specifically authorizes insurance in the case of fire) whether trustees in England and Northern Ireland had power to insure against war damage under Part 2. This doubt is now removed (c. 28), and trustees are allowed to pay the premiums out of capital as well as income without obtaining consents.

The Colonial War Risks Insurance (Guarantees) Act gives British backing to the schemes of the Colonies, the Sudan, British protectorates, and protected States and mandated territories (c. 35). Separate colonial funds, rather than a single centrally operated fund, are envisaged ; the home country retains, through the appropriate Secretary of State, a power to control and co-ordinate.

To these four statutes on war damage four more must be added. On the eve of the war a Housing (Emergency Provisions) Act encouraged local authorities to carry out first-aid repairs for bombed houses. Its wording—" temporary repairs immediately necessary to avoid danger to health ''—was found to prevent work on an empty house or the replacement of roofing slates. Local authorities were administratively exhorted not to let technical points of law obstruct their emergency housing programme. The Repair of War Damage Act (c. 34) now regularizes their action.

War damage discovered further difficulties in the relation of landlord and tenant. Legislation on the eve of the war, based on the conclusions of the Uthwatt Committee took war damage out of the scope of covenants to repair: tenants got a right to disclaim premises unfit through enemy action ; landlords might avert disclaimer by a counter-notice undertaking to make the premises fit, so that the tenancy could go on. Tenants had also an alternative to disclaimer ; they could give notice to retain the premises, doing the necessary repairs themselves. But these 1939 arrangements were found unsuitable for the great number of " short tenancies " held by the week, the month or the quarter. The Landlord and Tenant (War Damage) (Amendment) Act (c. 41) therefore makes it clear that, for short tenancies the tenant need pay no rent so long as the house is unoccupied and unfit. What is " fit? " Section 1 (4) answers that a house is fit if—

> " repaired to such extent as is reasonably practicable at that time, having regard to the circumstances prevailing in the locality. . . .''

Local authorities can save litigation by granting certificates that dwelling-houses have been repaired to this degree of fitness. The certificate is to be *prima facie* evidence of the facts stated ; it can be revoked as a higher standard of repair becomes practicable through additional or superior materials being available, or if the repairs are not properly maintained. Among other amendments a ground lessee is no longer obliged to go on paying the covenanted rent to a ground landlord when premises are destroyed. Somewhat similar changes are made for short leases in Scotland by the War Damage to Land (Scotland) Act, which encourages arbitration (before a " man of skill " selected from a panel of properly qualified architects or surveyors set up by the Secretary of State for Scotland) in place of litigation in the law courts (c. 4).

Another Scottish Act (c. 25) briefly enables rating authorities in Scotland to grant such relief as they think just and equitable where property is, by reason of war damage, wholly or substantially incapable of beneficial occupation.

Finance.—The fourth Finance Act of the war (c. 30) screws income tax up to 10s. in the £, and reduces allowances and exemption limits. There is, however, an ingenious plan to give the taxpayer a post-war credit of the amounts whereof those deductions have deprived him. The basis of assessment of farming profits is altered. The excess profits tax is not alleviated, but here again there is the prospect of post-war refund of 20 per cent. One effect of the steep rise in income tax was that the pre-war provision in covenants and bequests for tax-free payment of annuities, etc., was now exhausting the fund. The annuitant is therefore made to bear the difference between the pre-war scale of tax at 5s. 6d. and the new rate of 10s. To express this difference the draftsman skilfully employs a simple formula that the document " shall have effect as if for the stated amount there were substituted an amount equal to twenty twenty-ninths thereof." Arrangements for tax-free salaries or pensions are similarly treated.

Out of the usual miscellany of tax law amendments we may notice three. Property given to His Majesty during the emergency period will be exempt from estate duty: there will be relief from death duties if a death is due to injuries caused by the operations of the war: gifts made by wholesale merchants and manufacturers to charity or for relieving distress may be exempt from purchase tax.

The Financial Powers (U.S.A. Securities) Act enables the Treasury to carry out an agreement with the Reconstruction Finance Corporation for a loan repayable in fifteen years (c. 36). Its preamble explains that its object cannot be attained by Defence Regulations. This is because those Regulations are limited to the duration of their parent statute, the Emergency Powers (Defence) Act, namely, the period of the emergency ; it may be hoped that this period will be less than fifteen years. Britain is borrowing to provide dollar exchange to pay for supplies purchased before the Lease-Lend Act took effect. The loan is secured by pledging securities of corporations incorporated under American law ; outright sale of securities might have meant realizing them in an unwilling market or might have fallen foul of the American anti-trust legislation.

The Public Works Loans Act includes a power for the Treasury to advance money to local authorities and harbour undertakings to facilitate their exercise of an option to redeem or convert their securities (c. 14).

Price Control.—The policy of avoiding inflation is pursued by high taxation, by savings which sacrifice purchasing power, by rationing of goods and by control of prices. The Prices of Goods Act of 1939 had been well tested. In 1941 it seemed well to amend it by giving the Board of Trade a power to fix maximum prices, by strengthening the remedies available against speculators, by regulating re-sales to middlemen, and by checking excessive charges for such services as furniture storage, laundry or shoe repairs. A Goods and Services (Price Control) Act carries out these amendments and extensions (c. 31) without superseding the less widely named Act of 1939. Amongst other improvements the Board can check profiteering in second-hand goods: prosecution for holding up stocks is simplified: the Board can require books and accounts to be kept and produced: inspectors may be appointed ; and composite offers, barter and pledges are more closely supervised.

Administration of Justice.—The unpaid justices of the peace in Britain, numbering over 20,000, dispose of an overwhelming proportion of criminal charges. If, as must sometimes happen, a justice loses his usefulness through ill-health, deafness, old age or other disability, removal of his name from the commission is felt to be too drastic a step. Lord Hailsham, when Lord Chancellor, suggested that in these cases there might be a voluntary application for the name to be placed on a supplemental list. Lord Simon in 1941 goes further. The Justices (Supplemental List) Act (c. 27) creates a statutory list to contain, in the first place, the names of those justices who wish to be transferred to it. Secondly, if satisfied that, by reason of age, infirmity or other like cause, it is expedient that a justice should cease to exercise judicial functions, the Lord

Chancellor may direct that the name be entered in the supplemental list. If his name be on that list, a justice will not be qualified to sit at quarter or petty sessions or in licensing cases, though he is not entirely debarred from certain administrative business transacted by quarter sessions. The Lord Chancellor's powers over the commission of the peace are not confined to England, but apply to Scotland as well.

Relief for the Insolvent.—As in the last war a Courts (Emergency Powers) Act prevents a judgment creditor from enforcing his judgment, or a landlord from distraining upon his tenant for breach of covenant, unless he first obtains the leave of the court. This war requires a novel remedy for novel difficulties due to the destruction of buildings and the shift of population. Many an honest, prudent and industrious trader or professional man has found his financial outlook desperate through no fault of his own ; all his customers or clients, it may be, have left the neighbourhood. To save these war victims from the stigma and catastrophe of bankruptcy, Sir Donald Somervell introduced the Bill which became the Liabilities (War-Time Adjustment) Act (c. 24). It seeks to bring the debtor and his creditors together, with the help of the local " liabilities adjustment officer," to reach an " equitable and reasonable scheme of arrangement "—in particular, such a scheme as will enable the debtor, if he carries on a business (or would, but for the war, carry on a business), " to preserve that business or to recover it when circumstances permit." If all the creditors agree, the scheme will have statutory sanction forthwith. If only a majority in number and value agree, the officer can still approve the scheme, but a minority creditor who objects can have the scheme reviewed by the county court before final decision. If the officer cannot bring the parties together as he would wish, the court (on application from debtor or creditor) can take a hand, first making a " protection order " which stays all proceedings. Disobedience of any order of the court is punishable as a contempt. Schemes can vary the terms of leases, mortgages or contracts. Property can be disclaimed as on a bankruptcy. There is naturally a priority for the Crown and other privileged liabilities—one year's taxes and rates, debts in the nature of wages, and workmen's compensation payments. The debtor's house and furniture, his clothes and bedding and the tools of his trade are saved. There is special provision for companies and partnerships. The liabilities adjustment officers, appointed for each county court district, will have an interesting extra-judicial responsibility. The attitude of the court is outlined in the course of section 4:—

> " in exercising the powers aforesaid it shall have regard to the prospects of the business and the likelihood of ultimate benefit to the creditors as well as to the debtor."

Pharmacy and Medicine.—The repeal of the stamp duties on medicines has already been mentioned. The Exchequer could afford to surrender this revenue, because the purchase tax on proprietary medicines was bringing in much more. The Pharmacy and Medicines Act (c. 42) accompanies the repeal with several other provisions about sales. The public interest perhaps justifies the view that only trained chemists should sell medicine. While the stamp duties operated, the qualified man held an advantage because he could sell proprietary articles free of the tax which unqualified vendors had to pay. The adjustment of the relative positions requires complicated legislation which show signs of compromise. The strongly pressed interests of the herbalists lead to some cryptic savings for substances " produced by drying, crushing or comminuting plants." The herbalists, like the owners and manufacturers of patent medicines, were anxious about other provisions of the Act which insist that the composition of a medicine and the proportions of its ingredients shall be disclosed on the label of the bottle or container. This insistence (which does not apply to drugs prescribed by a doctor) may diminish the popularity of preparations which exploit mystery: it should also help a doctor to see what drugs his patient has been swallowing. Another reform prohibits the advertisement of remedies for certain serious diseases which need early treatment by skilled advisers. The diseases are Bright's disease, cataract, diabetes, epilepsy or fits, glaucoma, locomotor ataxy, paralysis and tuberculosis. There had been a like prohibition in previous years in respect of venereal disease and cancer. The Act has a saving for advertisements intended for Members of Parliament or of local authorities or hospital bodies, qualified doctors, nurses and chemists, persons undergoing training in order to qualify themselves for these professions, and persons whose business is to sell or supply surgical appliances. Following the recommendation of a committee presided over by Sir Norman Birkett, the Act forbids the advertising of any articles in terms calculated to lead to their use for procuring miscarriage. In respect of some of these provisions the Pharmaceutical Society is made specially responsible for enforcing the law. The regulation of vocations by an organization representative of those who practise them is an ancient English tradition.

The Legal Profession.—Another representative body entrusted wit the discipline of its members is the Law Society. Founded a century ago as a sort of professional club, it has gradually won recognition of its right to represent and control solicitors in England, who, by the way, suffer more copious statutory regulation than the members of the Bar. Hitherto scarcely more than two-thirds of the solicitors in England have actually joined the Law Society. Now, under a new Solicitors Act (c. 46), every solicitor will pay his annual subscription to the Society before the indispensable " practising certificate " can be issued to him. When he pays the prescribed fee for his annual practising certificate, he will also have to pay a contribution of £5 (or such less sum as the Council of the Law Society determines) towards a Compensation Fund. From this fund the Society will relieve or mitigate losses suffered by any person in consequence of a solicitor's dishonesty, if the case is properly notified and established. Besides this remarkable plan whereby the profession guarantees its own integrity, there is a fresh requirement that all solicitors must produce once a year an accountant's certificate declaring that their books, accounts and documents have been examined and stating whether the result is or is not satisfactory. The payment into the Compensation Fund and the requirement of an accountant's certificate do not begin until a date fixed by the Lord Chancellor ; the latter requirement is not to operate before the end of the emergency period. Compulsory membership of the Society is also postponed: there must first be a two-thirds majority in its favour on a poll of all practising solicitors.

The rest of the Solicitors Act chiefly concerns the internal administration of the profession and the enforcement of its discipline. The Society can debar a solicitor from taking any articled clerk: if a clerk has been found a party to a solicitor's misconduct, the Society can forbid his employment or remuneration by any solicitor. The Society's Council is to make rules about the bank accounts and records of a solicitor who is a sole trustee or is co-trustee only with his own partner or his own clerk.

Miscellaneous.—There is no need to enumerate such common-form statutes of a Parliamentary session as the Expiring Laws Continuance, Consolidated Fund and Appropriation Acts.

As might be expected under war conditions, there is further use of the Order in Council procedure to patch up minor troubles which otherwise would need statutory amendment. Early in the war a statute enabled the constitutions of chartered bodies to be altered by Order in Council in such respects as the term of a governor's office or the filling of vacancies. It overlooked the exceptional case where a body (e.g., the Pharmaceutical Society) was created by charter but is in part regulated by statute. A new Act (c. 19) remedies the omission. Another (c. 20) similarly lubricates the difficulties of public schools (or schools administered by bodies incorporated by charter) as deemed by His Majesty in

Council "necessary or expedient for the purposes of securing economy or efficiency in the carrying on of the work of the school under war conditions." For other endowed schools the central educational authorities of England and Scotland may make similar orders. Thus, for the war period, the income or capital of school endowments may be applied to otherwise unauthorized purposes, sinking fund payments may be suspended or reduced, and governors need not retire.

The total of Orders in Council and other forms of Statutory Rules and Orders registered during 1941 is 2,157. There are nearly three times as many "public general" rules and orders as "local." In peace-time the local type preponderates. War creates other preoccupations than the *ad hoc* adjustment of local government and public health law. It stimulates the general interruption of the citizen's life and business by way of Defence Regulations and orders made thereunder for food rationing, limitations of supplies and other controls. This interference, temporary, empiric, not easily intelligible in its technical detail, sometimes hurriedly undertaken and almost always frequently revised, is a legislative task which few would seriously suggest should be attempted by Parliament alone.

2. NORTHERN IRELAND

[*Contributed by* SIR ARTHUR S. QUEKETT, K.C., LL.D.]

DURING the year 1940 twenty-eight public general Acts and one local Act were passed in the third session of the Fifth Parliament, which was opened on December 19, 1939, and was still in being at the close of 1940.

Ministry of Public Security.—The public services in connection with the administration of civil government were entrusted by the Ministries of Northern Ireland Act, 1921, to six incorporated departments, the Ministries of Finance, Home Affairs, Labour, Education, Agriculture and Commerce. A new subject-matter was brought within the sphere of administration in the years 1938 and 1939, namely, air-raid precautions and civil defence against hostile attack. In June, 1940, these services assumed a major importance to the community, and the situation also demanded a strengthening of the powers of the executive in the matter of public security. By the Ministries Act (c. 11) a seventh Ministry was added to the existing group, with power to take such steps and precautions and to issue such orders as the Minister should consider necessary for "public security, civil defence, the preservation of the peace and the maintenance of order, the co-ordination of civil defence services and the protection of persons and property from injury or damage, in the present emergency." For those purposes there were transferred to the new Ministry, by an order of the Governor made in pursuance of the Act, various functions previously exercised by the Ministry of Home Affairs. The Ministry of Public Security is a department whose head is a Cabinet Minister, and the statutory provisions regulating the salaries of ministerial offices were amended by the Act in such a way as to secure that the creation of a new Cabinet office did not cause any additional charge upon the Exchequer.

Local Government.—By c. 4 the Parliamentary grant to county councils in respect of their public mental hospitals is increased from £37,079 to £60,000, and provision is made for this total to be allocated between the several hospitals on the basis of the daily average number of patients in each hospital during a period of twelve months.

Another Act (c. 2) postponed the elections of local authorities. It also extended the provisions of the Members of Local Authorities Relief Act, 1900, so as to relieve from disqualification for membership by reason of absence members of any branch of His Majesty's naval, military or air forces when employed on any naval, military or air force service, and any person whose employment in the service of His Majesty may be properly treated for the purpose of that Act in the same manner as naval, military or air force service. The same Act postponed the preparation of jurors books.

A defect in the powers of the Ministry of Home Affairs with respect to the holding of local inquiries and investigations was removed by c. 23. The Ministry had ample power to cause local inquiries to be held into matters governed by the Local Government Acts, Public Health Acts, or Poor Relief Acts. That power, however, did not expressly extend to the administration by local authorities of matters governed by other codes of statutes—as, for instance, the Acts which enable county councils to provide for the treatment of tuberculosis. Further, the existing power did not expressly authorize an official investigation into local machinery as distinct from a hearing of parties or witnesses by an inspector sitting for that purpose. The Act of 1940 empowers the Ministry to cause to be made such local inquiries and investigations as it sees fit in relation to any matters concerning the administration of any enactment which relates to the functions of a county or district council, or of any committee or joint committee wholly or partly appointed by any such council.

By c. 12 the making of the second general revaluation under the Valuation Acts Amendment Act of 1932 was postponed for a period of five years. Amendments were made in the provisions of that Act as to the payment by local authorities of the expense of annual revision. The Act includes a provision for the appointment of an officer to act in place of the Commissioner of Valuation in case of his illness or absence—a matter which had not been provided for in the series of previous statutes ranging from the year 1852 onwards.

Social Services.—The Old Age and Widows' Pensions Act (c. 6) fixed 60 years —instead of 65 years—as the age at which an insured woman, or the wife of an insured man, can receive a contributory pension. A system of supplementary pensions was set up by the same Act, so as to meet the needs of persons receiving old age pensions (whether contributory or non-contributory), and women aged 60 years and upwards receiving widows' pensions. The administration of supplementary pensions was placed in the hands of the Unemployment Assistance Board.

The Unemployment Insurance Act (c. 16) increases the rates of benefit and the rates of contribution payable under the Unemployment Insurance Acts ; it alters the existing benefit rule, which permits payment of benefit only if the claimant has been unemployed for at least three days out of any consecutive six days, so that under the Act a claimant is entitled to benefit if he is unemployed for two days out of any six consecutive days ; and it provides that non-manual workers earning between £250 (the previous limit) and £420 a year shall be brought into unemployment insurance and, after twelve months, into the unemployment assistance scheme.

The Workmen's Compensation (Supplementary Allowances) Act (c. 18) provides that where a workman is entitled to a weekly payment by way of compensation for an accident under the Workmen's Compensation Act of 1927, he shall (whether the accident giving rise to the compensation happened before or after the date of the commencement of the Act) be entitled in respect of each week after that date for which he is entitled weekly payments, to supplementary allowances similar to those under the English Act (*supra* p. 12).

Scutch-mill Workers.—The Agricultural Wages (Regulation) Act (c. 19) contains a provision concerning the wages of " scutchers," that is to say, those workers who are employed to remove the hard woody core of the flax plant from the soft cohesive outer fibre (which is the valuable part of the plant from the linen-manufacturing aspect). In the year under review, the price of flax had been fixed by the Ministry of Supply, but there seemed to be no available machinery for fixing the wages to be paid to the scutchers. It was generally agreed that this function was appropriate to the Agricultural Wages Board which had been set up 2 & 3 Geo. 6, c. 25, but that statute applied only to workers in "agriculture" and certain connected activities which did not include scutching. The Act of 1940 enables the wages of workers employed in, or in connection with, the scutching of flax or tow to be fixed by the Board and for that purpose extends the previous Act to those workers.

Truck Acts.—In *Pratt* v. *Cook* [1940] A.C. 437 the House of Lords decided that the existing law enabled a person employed on certain conditions to "eat his cake" for twenty years and to "have it" by recovering so much of his wages for that period as had not been paid to him in cash. At Westminster legislation (see *supra* p. 12) was passed prohibiting further actions of this nature, and like provision was made for Northern Ireland by the Truck Act (c. 21).

Rent Control.—The Rent and Mortgage Interest (Restrictions) Act (c. 7) provides that the existing control shall continue, in the case of dwelling-houses and mortgages to which that control applies, until twelve months after the emergency period. The Act also contains provisions bringing under rent control dwelling-houses (not within the previous Acts) where the net annual value does not exceed £75, and these apply to mortgages where the mortgaged property consists of, or comprises, one or more of such dwelling-houses. The provisions for extended control are, in substance, a re-enactment of the provisions of the previous Acts, but the only permitted increases of rent are an increase up to eight per cent. of the landlord's expenditure on structural alterations, and increases corresponding to increases in rates.

Building Societies.—The effect of c. 8 is to keep the law relating to building societies in Northern Ireland in line with the law in Great Britain by enacting the provisions of the Building Societies Act, 1939 (2 & 3 Geo. VI, c. 55).[1]

Hire-Purchase.—The Hire-Purchase Act (c. 10) brings the law with respect to hire-purchase and credit sales in Northern Ireland into line with the law in force in England under the Hire-Purchase Act, 1938 (1 & 2, Geo. VI., c. 53).[2]

Investment Frauds.—The purpose of c. 9 is to make provision for preventing fraud in connection with various types of dealings in securities, i.e., shares, debentures, Government securities (British or Foreign), loans to, and deposits with, societies, and rights or interests acquired under "unit trust" schemes. The methods of prevention include, first of all, a system under which a dealer in securities must be licensed with the Ministry of Commerce, unless exempted as being a member of a recognized stock exchange, a licensed bank, a municipal corporation, an industrial and provident society or building society, or the manager or trustee of an authorized unit trust scheme. Another method of prevention adopted in the Act is to limit the registration of industrial and provident societies, so that such societies shall not be employed to carry on business which would more fittingly be undertaken by registered companies. The Act also empowers the Registrar of building societies to restrain the activities of any such society in the interests of its investors and depositors. Heavy penalties are imposed for fraudulently inducing persons to invest money or distributing circulars for that purposes. There are also provisions for regulating "unit trust" schemes.

Trade Unions, Friendly Societies and Building Societies.[3]—The Societies (Miscellaneous Provisions) Act (c. 25) enables modifications to be made, during the emergency, in the statutory requirements as to meetings, the appointment of officers and the amendment of rules. It amends the law as to the amalgamation, and transfer of engagements, of building societies and trade unions. It also provides for the continuation of membership of friendly societies during war service, and for the setting up of funds for the purchase of Government securities on behalf of members of friendly and industrial and provident societies.

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[1] Rev. of Leg., 1939, p. 7.

[2] See Rev. of Leg., 1938, p. 10.

[3] As to this Act, see also s. 11 of 3 & 4 Geo. VI, c. 19, passed by the United Kingdom Parliament.

Protection of Policy-holders from Forfeiture.[4]—The Industrial Assurance and Friendly Societies (Emergency Protection from Forfeiture) Act (c. 15) protects from forfeiture assurance policies for an amount not exceeding £50, exclusive of bonus, in cases where the default, which would otherwise cause a forfeiture, occurs in consequence of the war. The Act applies to policies of industrial assurance ; policies of assurance upon human life effected with collecting societies (not being policies of industrial assurance) ; and policies of assurance upon human life, where there are separate premiums effected with registered friendly societies other than collecting societies. The policy-holder can apply to the company or society for the protection of the policy. If the company or society admits the application, the policy will be endorsed or a notice will be served on the applicant that the policy is protected. If the application is refused, the applicant has a right of appeal to the Industrial Assurance Commissioner. The Act provides for the determination of the protection in certain cases, and also for the reduction of the sum assured, and (in the case of endowment policies) for the postponement of maturity, where the premiums remain unpaid.

Educational Matters.—The Education (Emergency Provisions) Act (c. 27) was passed in order to secure the provision of air-raid protection at schools and training colleges. Power is given to education authorities and school managers to provide such protection, and they may be compelled to provide it at any particular school, or at all the schools in any particular area, if the Ministry of Education, after consultation with the Ministry of Public Security, by order so requires. The Act provides for the relaxation of any restrictive covenants or agreements which would otherwise prohibit or limit the execution of the necessary works. The Ministry of Education is also empowered to order the immediate closing of any school if, on account of its situation or the nature or condition of its structure, the pupils would, in the opinion of the Ministry, be exposed to undue danger in the event of an air-raid. The Act also contains provision for the payment of Government grants towards the expenditure incurred thereunder in the execution of air-raid protection works.

The Education (School-Leaving Age) Act (c. 5) effects a further postponement of the date for the coming into operation of the Act 2 Geo. VI, c. 20, which raised the school-leaving age for purposes of compulsory education from fourteen to fifteen.

Emergency Provisions as to Corporate Bodies.—The Chartered and Other Bodies (Temporary Provisions) Act (c. 1) has in view the release of various bodies from requirements of their constitutions which may hinder them from carrying on their work with economy and efficiency during the emergency period. For that purpose the Governor may give directions modifying the provisions of a charter or other instrument as to the constitution of a chartered corporation or of any body formed for the purpose of discharging any of the corporation's functions, or as to the discharging of those functions. The Act gives power to the Governor, by Order in Council, to extend the term of office, and reduce the number of members, of corporations and bodies constituted by an Act of Parliament or Order in Council, or by a Government Department acting in pursuance of statutory powers. Special provision may be made by an Order in Council under the Act as regards the Queen's University of Belfast. By such an Order[5] the University is enabled to adapt itself to emergency conditions by means of emergency statutes which may temporarily override the provisions of Acts of Parliament and other instruments regulating the constitution, endowments or functions of the University. The Act does not apply to bodies which form part of the general system of local government, nor does it apply to any chartered or statutory body operating in Northern Ireland but not in Northern Ireland alone.[6]

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[4] As to this Act, see also s. 11 of 3 & 4 Geo. VI, c. 10, passed by the United Kingdom Parliament.

[5] See S.R. & O. (N.I.), 1940, No. 55.

Taxation and Finance.—There were two sets of Budget Resolutions during the year and separate Finance Acts were brought in thereon. Increases in taxation within the powers of the Northern Ireland Parliament were effected by c. 22, which adopted the increased rates put in force in Great Britain as respects estate duty and entertainments duty. The other Act (c. 20) deals with reliefs from taxation. It provides for a reduction of licence duty on mechanically-propelled vehicles which carry a gas container or plant for producing gas, and it effects a release from duty in respect of a trailer used solely for carrying the container or plant. Permits are authorized to be issued, at a nominal charge, in lieu of licences for the use of mechanically-propelled vehicles by members of H.M. Forces (including certain women's services) on leave from service overseas or afloat. There is a group of provisions designed to strengthen the law in relation to death duties against evasions of various kinds. Provision is also made for extending to the estates of merchant seamen who die from causes arising out of war operations the same relief from death duties as is applicable to members of H.M. Forces under previous legislation); and estate duty is to be remitted in certain cases where, as a result of successive deaths arising out of war operations, property on which estate duty has been paid becomes subsequently chargeable to duty on the death of the person to whom the property passed on an earlier death. There is an exemption from Northern Ireland death duties in favour of securities issued by the United Kingdom Treasury with a condition that they are exempt from death duties in Great Britain.

The Exchequer and Financial Provision Act (c. 14) contains a provision concerning the finance of the Northern Ireland Road Transport Board. An expert committee and a Parliamentary committee had both recommended that the Government should take over the " A " and " B " Transport Stocks, the " A " Stock at par and the " B " Stock at ninety per cent. of its nominal value. The Act provides (s. 3) that the Ministry of Finance may purchase the Transport Stock by agreement upon the terms recommended and may, for the purpose of giving effect to such an agreement, borrow money under powers which had been conferred by an enactment of the previous year (2 & 3 Geo. VI, c. 2, s. 9). Under this provision a new issue of 3¾% Government of Northern Ireland Stock was made, and the holders of Transport Stock agreed to accept the Government Stock in lieu of purchase money.

1941

In the year 1941 twenty-four public general Acts were passed, one in the session 4 & 5 Geo. VI and the rest in the session 5 & 6 Geo. VI. There were no local or private Acts or Acts confirming Provisional Orders.

War Damage.—Legislative power in respect of " matters arising from a state of war " belongs to the Imperial Parliament, except so far as that Parliament decides to relax the restrictions contained in the Government of Ireland Act by enabling the Parliament of Northern Ireland to make provision for particular purposes within the excepted category. Thus the War Damage Act, 1941, applies directly to Northern Ireland as part of the United Kingdom. In that case, as the Imperial Parliament does not impose direct charges upon moneys voted by the Northern Ireland Parliament, it became necessary for the latter Parliament to supplement the Westminster statute by making provision for the payment of certain administrative expenses. This was done by s. 4 of the Exchequer and Financial Provisions Act (c. 2) which charged upon the votes—

(*a*) any expenses incurred by a department of the Government of Northern Ireland in discharging any liability imposed upon it by virtue of the War

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[6] The latter restriction was subsequently (1941) repealed.

Damage Act for the payment of instalments of contribution or indemnities in respect of any proprietary interest in a contributory property ; and

(b) any sums determined by that Government to be payable to the councils of counties and county boroughs by way of grants in respect of the contributions to be made by those councils under the War Damage Act.

On the other hand, the Imperial statutes which deal with the rights and liabilities of landlords and tenants in relation to land damaged by war, and with the repair of buildings rendered unfit by war damage for housing or other essential purposes, do not apply to Northern Ireland, except to the extent of enabling the Northern Ireland Parliament to legislate for similar purposes. In exercise of this enabling power the Northern Ireland Parliament passed the Landlord and Tenant (War Damage) Act (c. 9) enacting provisions similar to those contained in two measures passed at Westminster in 1939 and 1941. Part I of the Act gives relief from any obligation to repair land or premises, whether that obligation is imposed upon the landlord or upon the tenant, in cases where the property which forms the subject matter of a contract of tenancy has suffered war damage. Part II lays down a procedure which may be followed in cases where premises are rendered unfit by reason of war damage. The tenant may serve either a notice of disclaimer or a notice of retention ; if he serves neither of these notices the landlord may call upon him to elect as to which course he proposes to follow. If a notice of disclaimer is accepted, it amounts to a surrender and the tenant will not be further concerned. If the tenant serves a notice of retention, he will be obliged to undertake the repair of the war damage so as to render the premises fit ; but during the period while the premises are unfit he will be relieved from the payment of rent either wholly or in part. If the landlord serves an effective notice to avoid disclaimer, he will be responsible for rendering the premises fit as soon as practicable and the tenancy will continue ; but again the tenant will be relieved from the liability to pay rent during the period while the premises are unfit. The question whether premises are unfit or not, or whether a notice is valid, can be determined by the court. In the case of tenancies determinable on short notice—such as a week, month or quarter—the position is further simplified by providing that where the premises are unfit by reason of war damage and are not occupied by the tenant, no rent is to be payable under the tenancy in respect of the period of unfitness. Part III of the Act contains provisions which are necessary in order to take account of the effect which the War Damage Act, 1941, has in relation to the matters dealt with in Part II of the Northern Ireland Act ; in particular, there is a provision that the tenant may attach to his notice of retention the condition that it is dependent upon a determination being given by the War Damage Commission to make a " cost of works payment " in respect of war damage. Under Part IV the powers given to the court by the Act are to be exercised by the county court, subject to an appeal to the Supreme Court.

The repair of War Damage Act (c. 12) amends the Housing (Emergency Powers) Act and the Essential Buildings and Plant (Repair of War Damage) Act of 1939, which has been enacted in exercise of particular enabling powers given by the Imperial Parliament.

Excessive Rents.—Complaints that excessive rents for housing accommodation were being obtained from persons who have to seek alternative accommodation on account of war damage to their homes brought about the passing of the Excessive Rents (Prevention) Act (c. 20). This Act provides for the setting up of a number of Rents Tribunals to which aggrieved tenants can apply for the purpose of having a fair and reasonable rent fixed in respect of the alternative accommodation. Each Tribunal is to be constituted of three persons, of whom one, who is to be the chairman, must be a resident magistrate or a practising barrister-at-law or solicitor of not less than six years' standing. The

Act applies only to lettings made on or after April 1, 1941 ; it does not operate in the case of dwelling-houses to which the Rent Restrictions Acts apply, unless the standard rent of the dwelling-house is calculated by reference to April 1, 1941, or any later date. A person aggrieved by the determination of a Tribunal may appeal therefrom to the county court. The landlord is made liable on summary conviction to a fine not exceeding £100 if he fails to refund to the tenant, within one month after the determination of the Tribunal comes into force, any sum paid in excess of the amount which the Tribunal determines to be fair and reasonable, but not exceeding the excess amount for a period of twelve months. Subject to a like limitation as to amount, the tenant is given a right to recover the excess by action against the landlord or to deduct it from any rent payable to the landlord in respect of the dwelling-house. Under the Rent Restrictions Acts certain remedies were already available to tenants who were being overcharged for furnished accommodation ; but the Act under review affords a simpler procedure to such persons, and, in addition, by a wide definition of the expression " dwelling-house," brings within its scope various kinds of buildings which, though used during the emergency as housing accommodation, are not within the operation of the Rent Restrictions Acts.

Flax and Fish.—The Fisheries (Ireland) Act of 1842 consolidated and amended the statutes then in force relating to Irish fisheries, beginning with 5 Edw. IV, c. 6 and ending with 1 & 2 Vict., c. 76. By s. 80 of this compendious Act it was enacted that—subject to a fine not exceeding £10—" no person shall throw, empty, or cause to run or flow into any river or lake any dye stuff, or other deleterious or poisonous liquid, or shall throw into such river or lake any lime, spurge, or other deleterious or poisonous matter, or shall steep in such river or lake any flax or hemp." It was no defence to a prosecution under this section that the liquid or matter, if poisonous in itself, had become immediately innocuous owing to the volume of water in the river. Moreover, the section absolutely prohibited the steeping of flax or hemp in rivers, and was not confined to rivers containing fish. The law of 1842 was admittedly severe. In the year 1941 its severity forced itself upon the attention of the Government, when the Minister of Agriculture called upon farmers to grow 100,000 acres of flax as part of the war effort, with the prospect that 75 per cent. of the crop would have to be steeped or " retted " by the farmers themselves. These events led to the passing of the Fisheries (Flax Water) Act (c. 7), by which the farmer is safeguarded in two ways. It is made a defence for the farmer, who is prosecuted for turning flax water into a stream or lake, to prove that he used the best practicable means, within a reasonable cost, to prevent what he was doing from causing injury to fish. Secondly, before a person is prosecuted the consent of the Attorney General must be obtained for the prosecution. The Attorney General, before he gives his consent, must take into consideration any representations made to him by the Ministry of Commerce or the Ministry of Agriculture ; and, so that either of those Ministries may be in a position to make such representations, a person proposing to bring a prosecution must give notice to those two Ministries. These provisions are intended to relieve the farmer from prosecution for an offence which in fact does no harm ; but if a farmer deliberately causes damage he is not protected. They are of temporary duration, and will expire when " the emergency that was the occasion of the passing of this Act " comes to an end.

A permanent amendment of the law with respect to the application of fines for offences against s. 80 of the Act of 1842 is included in the amending statute. Under s. 19 of the Fisheries (Ireland) Act, 1869, one-third of every sum levied as a fine had to be paid to the person who was the means of bringing the offender to justice. This enactment, being regarded as an incentive to promiscuous prosecutions, was superseded by s. 2 of the Act of 1941, which provides that, where the prosecution is by a water bailiff, the whole of the fine is to go to the board of fishery conservators, and that where a policeman prosecutes, that portion of the fine which would have been awarded to him under the Act of 1869 will be dealt with as an appropriation in aid of the Parliamentary vote for the expenses of the Royal Ulster Constabulary, and the balance will be paid to the board.

Compensation for Live Stock Slaughtered on Account of Foot-and-Mouth Disease.—A useful Act of 1928 (18 & 19 Geo. V, c. 26) had provided a compensation fund—formed by means of charges levied from the owners of cattle, pigs and sheep exported from Northern Ireland—to which recourse may be had for the payment of compensation to the owners in cases where the animals are slaughtered at some port in Great Britain in consequence of an outbreak, or apprehended danger, of foot-and-mouth disease. Claims for compensation are investigated by committees of assessors representative of the stock owners and dealers. The Act of 1928 requires that the investigating committee " shall proceed forthwith " to the port in Great Britain " and there assess the value " of the animals. By the Exported Animals (Compensation) Act (c. 22) the Trustees of the compensation fund are enabled to appoint agents, resident in Great Britain, to report to the committee of assessors on the value of the animals, and where such a report is furnished the committee are authorized by the Act to make their assessment without having to go to Great Britain for that purpose.

Clogher Valley Railway and Roads.—The Clogher Valley Tramway or Light Railway was the first narrow-gauge line to be constructed under the authority of a Provisional Order confirmed by Parliament in pursuance of the Tramways and Public Companies (Ireland) Act, 1883. An account of its history states that " Despite numerous checks born of a natural Irish antipathy to anything new which the tramway—as it was styled for many years—received, its thirty-seven miles were open for traffic in May, 1887." It took its way through an attractive portion of country between Lough Neagh and Lough Erne from Tynan to Maguiresbridge. At one time, no doubt, the railway met a real need, though it was never an economic proposition. It never paid a dividend, and was worked at a loss every year since 1912. In pursuance of a provision in the Order, the railway, after years of financial stringency, became the property of the county councils of Tyrone and Fermanagh, who operated the undertaking through a joint committee of management. Under the Order a share dividend of 5 per cent., and the amount of any loss in working expenses, were guaranteed by local rates levied upon those areas in the two counties through which the line ran. Exchequer assistance was also given under statutory authority to defray proportions of both these local charges. Furthermore, the effect of subsequent " derating " was to shift most of the burden from rates to taxes, so that the railway came to cost the Government about £12,000 a year.

A point was at length reached at which there was general agreement that the transport needs of the area served by the railway could be adequately met at less expense by public road services in the hands of the Northern Ireland Road Transport Board. In these circumstances the Clogher Valley Railway and Roads Act (c. 13) was passed, at the instance of the Government, as a public general statute. It provides for the discontinuance of the railway as from a day to be appointed by the Minister of Home Affairs.[7] It also makes provision that any liability of the local guaranteeing areas for the payment of guaranteed dividends shall be met by payments from the Tyrone County Council, but that the full amount is to be made good to that council periodically out of moneys voted by Parliament.

From the liquidation of the undertaking certain assets are excluded. Land which originally formed part of a highway is restored thereto ; land required for road widening is transferred to the county council ; land required by the

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[7] The appointed day was January 1, 1942.

Government is to vest in the Ministry of Finance. Subject to this, the assets are to be realized by the liquidator and to form a fund which, with any necessary assistance from moneys voted by Parliament, is to provide compensation for loss of employment to officers and servants formerly employed in the undertaking.

Social Services.—The Determination of Needs Act (c. 4) abolishes the requirement that, in determining the need or assessing the needs of applicants for unemployment assistance or supplementary pensions, the resources of all members of the household of which the applicant is a member must be taken into account. The resources of members of the household other than the applicant, the husband or wife of the applicant, and any member of the household dependent on the applicant, are not to be regarded as resources of the applicant. The Act also provides that, in computing resources in connection with the granting of unemployment allowances, supplementary pensions or financial assistance under the Blind Persons Acts, money and investments treated as capital assets shall be disregarded up to the amount of a person's war savings—subject to a limit of £375, in addition to any money and investments treated as capital assets which are disregarded under the law previously in force. The Unemployment Assistance Fund (Northern Ireland) is to be wound up, and when that is done the expenditure on unemployment assistance will become a direct charge on the Parliamentary votes.

The National Health Insurance and Contributory Pensions Act (c. 14) implements the provisions of s. 11 of the National Health Insurance, Contributory Pensions and Workmen's Compensation Act, 1941, passed by the United Kingdom Parliament. Part I of that Act consists of provisions with respect to national health insurance and contributory pensions, and s. 11 thereof makes the extension of those provisions to Northern Ireland conditional upon the passing of an Act of the Northern Ireland Parliament for that purpose. The Northern Ireland Act makes provision accordingly, including the exceptions and adaptations required to be made in the Imperial measure and the necessary charge upon moneys to be voted by the Northern Ireland Parliament.

The Workmen's Compensation (Amendment) Act (c. 16) amends the existing Acts by bringing within their scope persons employed otherwise than by way of manual labour whose remuneration does not exceed £420 ; for this purpose the former limit was £350. The same Act amends an enactment under which a person is treated as a "workman" for compensation purposes, if engaged in plying for hire with a vehicle or vessel the use of which has been obtained by him from its owner under a contract of bailment, and the owner is treated as his "employer." The definitions of these words are extended so that a person who is buying the vehicle or vessel on the hire-purchase system is to be regarded for compensation purposes as the owner and therefore as being the employer of such a workman.

Enforcement of Fair Wages Clause.—"Local carriers" in Belfast and Londonderry are licensed by the Ministry of Home Affairs under s. 16 of the Road and Railway Transport Act (Northern Ireland), 1935. That enactment provides that the wages paid by local carriers to persons employed by them, and the conditions of employment of those persons, shall not be less favourable than the wages which would be payable, and the conditions which would have to be observed, under a contract with a Government department containing a "fair wages clause" ; but the section does not make it the duty of any particular person to observe this requirement, nor does it impose on any person a penalty for non-observance. By an Act of 1941 (c. 10) any failure by a local carrier to comply with the requirements of s. 16 of the 1935 Act as to wages and conditions of employment is made an offence punishable on summary conviction by a fine not exceeding £100.

Superannuation Benefits.—The Superannuation Schemes (War Service) Act

(c. 6) enables provision to be made for preventing the loss of benefits under certain superannuation schemes by persons undertaking service in the Forces or employment for war purposes. The Act does not apply to pensionable officers of local authorities or pensionable teachers.

Liabilities (War-time Adjustment).—The purpose of c. 19 is to provide for the arrangement, or the adjustment and settlement, of the affairs of persons financially affected by war circumstances. It follows Part I of the Liabilities (War-time Adjustment) Act, 1941 (passed at Westminster), subject to such modifications as are required by reason of differences in the law as between England and Northern Ireland. In certain respects the matter would have been beyond the powers of the Northern Ireland Parliament, and therefore a provision was included in the United Kingdom Act, enabling that Parliament to legislate, in relation to persons ordinarily resident or carrying on business in Northern Ireland, for purposes similar to the purposes of Part I of that Act. Under the United Kingdom Act the jurisdiction conferred upon the court is exercised by the county court, subject to the statutory right of removal of the proceedings into the High Court. The " adjustment " procedure is an adaptation of the ordinary bankruptcy procedure ; but while in England the county courts exercise jurisdiction in bankruptcy, no such jurisdiction is exercised by county courts in Northern Ireland. The Northern Ireland Act, therefore, provides that the jurisdiction shall be exercised by the High Court, where a procedure is already available. The United Kingdom Act provides for the appointment of at least one liabilities adjustment officer for each county court district ; under the Northern Ireland Act the Lord Chief Justice of Northern Ireland is empowered to appoint one or more such officers, but is not required to assign them to any particular areas.

Temporary Provisions as to Chartered and other Bodies.—In 1940 an Act was passed enabling the Governor to give directions and make Orders in Council " for promoting economy and efficiency in the carrying on under emergency conditions of the work of certain chartered and other bodies." An amending Act (c. 15) was passed in the following year so as to enable the powers of the Governor in Council to be exercised in the case of a body which was, in principle, within the scope of the 1940 Act but was found to be excluded therefrom by peculiarities of its constitution for which no provision had been made.

Taxation and Finance.—The Finance Act (c. 11) contains enactments relating to the duties on licences for mechanically-propelled vehicles. It provides for the payment of a reduced licence duty of 5s. in the case of agricultural tractors used for hauling directly, from land in the occupation of the person in whose name the vehicle is registered to other land in his occupation, agricultural produce of, or articles required for, the agricultural land which he occupies. The same reduced duty is made payable where the tractor is used for hauling turf directly, from any place where the owner of the tractor has a right to cut and take turf, to premises on agricultural land in his occupation for consumption on those premises. The Act provides that a trailer pump used solely to combat fires is not to be treated as a trailer for taxation purposes. It enables permits to be issued, at a nominal figure, in lieu of excise licences for the use of vehicles by officers and men of the Merchant Navy when on leave. The Act also gives some emergency reliefs in the case of death duties and provides that certain amounts of income tax credited under s. 7 of the Finance Act, 1941 (passed by the Parliament of the United Kingdom) shall be exempt from death duties.

The Exchequer and Financial Provisions Act (c. 2) contains provisions simplifying the law with respect to the application of moneys raised by Ulster Savings Certificates and to the Ulster Savings Certificates Sinking Fund. The Act includes a declaration that the Capital Fund is available as additional security against capital liabilities in respect of moneys borrowed on the security of the Consolidated Fund of Northern Ireland.

Departmental Functions.—The Ministries Act (c. 17) makes an amendment of an Act of the previous year which had established a Ministry of Public Security, to be concerned with the performance of functions appropriate to an emergency, i.e., public security, civil defence, peace and order, and the protection of persons and property from injury or damage. The 1940 Act made provision for "one-way" transfers of functions to the Ministry of Public Security, whereas the amending Act gives a "two-way" power of transfer. The amending Act also provides that transfers of any of the emergency functions may take place, not only between the Ministry of Public Security and another Ministry, but also between any of the Ministries of Northern Ireland. Transfers of functions are to be made by Order of the Governor in Council, and the Orders may provide for the modification of enactments, transfer of property and other incidental matters.

The salaries of ministerial offices form the subject of two Acts (4 & 5 Geo. VI, c. 29, and 5 & 6 Geo. VI, c. 1). By the former Act salaries are provided for the Parliamentary Secretaries of the Ministry of Agriculture and the Ministry of Commerce. By the latter Act a salary is assigned for the first time to the office of Minister of Commerce.

Delegated Legislation under Defence Regulations.—Various important orders were made by departments of the Northern Ireland Government under powers delegated to them by the Secretary of State or some other Imperial authority under the Defence (General) Regulations, 1939. These exercises of delegated emergency power are dealt with as belonging to the Northern Ireland, and not to the Imperial, series of Statutory Rules and Orders (by virtue of Reg. 102A(2) of the Defence (General) Regulations). They include—for instance—the general orders made by the Ministry of Agriculture as regards the compulsory tillage of agricultural land, and those of the Ministry of Public Security for prevention of outbreaks of fire.

3. ISLE OF MAN

[*Contributed by* HIS HONOUR R. D. FARRANT, *First Deemster and Clerk of the Rolls.*]

THE 29 Acts of Tynwald which were passed by the Insular Legislature during the year 1940 were mainly necessitated by the exigencies of the War.

War Measures.—Dealing first with these: By the Administration of Justice (Emergency Provisions) Act, Jurors for Criminal cases were reduced in number from 12 to 7, and Courts were given power to sit without Jurors in civil cases during the emergency.

Next comes the House of Keys (Removal of Disqualification) Act, 1939, providing for the removal of the disqualification for membership of the House of Keys by reason of a member having enlisted in or been commissioned in the Forces during the War.

School teachers who were resident in the island, and served some part of their contributory service there on War Service, were by the School Teachers Superannuation (War Service) Act, 1939, included in the English Act of 1939, which was extended to the Isle of Man and their period of War Service deemed to be contributory service for the purposes of qualifying for superannuation allowances and gratuities.

An Act similar in its provisions to the English Personal Injuries (Emergency Provisions) Act, 1939,[1] with certain modifications to suit local conditions, was passed by the Insular Legislature.

Fire fighting apparatus was the subject of the Local Government (Fires) Act, 1940, by which the island was divided into seven districts for fire fighting purposes and provisions were made for the provision of and payment for apparatus, with power to levy a 1d. rate on the whole island for that purpose.

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[1] See Rev. of Leg., 1939, p. 21.

Further Acts necessitated by the War were passed dealing by the Licensing (War Emergency Fees) Act, 1940, with a reduction in the fees paid for the license of Hotels and Public Houses by 25% and for boarding houses in respect of short term licenses by 50% during the War ; and the Liability for War Damage (Miscellaneous Provisions) Act, 1940, dealt with the removal of the liability to insure repair replace pay rent or damages in respect of goods on bailment in or on approval or sale or return or in respect of customs or excise duties thereon.

Full provision was made by the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1940, in respect of payments of benefits to persons employed on War Service outside the Isle of Man for extending the period for benefits to free Insurance and Pensions on certain terms ; for postponement of sickness and disablement benefit in cases of war injuries ; and modifications of right to benefit to disability pensions and injury allowances ; with provisions in the case of married women who serve as Nurses or other services ; for provisional awards of Pensions, and against Double Pensions ; and by the Execution of Trusts (Emergency Provisions) Act, 1940, Trustees or Limited owners on Service were given powers to delegate their duties, as were also holders of powers of attorney, and Acts done under the Settled Lands Acts were made valid in case of the death or absence on War Service of an infant tenant for life.

Provision was also made by the Income Tax (War Emergencies) Act, 1940, for relief from tax in the case of incomes diminished by reason of the War, and for certain concessions in case of post war years.

The Motor Duties (Temporary Provisions) Act, 1940, gave power to the authority to reduce duties payable in respect of motor vehicles used by members of the Forces on leave.

Power was given by the Letting of Agreements (Revision) Act, 1940, to the Assessment Board for the period of the Emergency to review the terms of letting of houses furnished or otherwise, and of storage of furniture, since May 1, 1940.

Two of the most important Acts dealing with local conditions, namely, the War (Local Conditions) Act, 1940, and the War Emergency (Relief of Rates) Act, 1940, were passed to deal with the situation arising from the almost complete cessation of the Visiting Traffic on which so much of the prosperity of the island depends. Nearly all the boarding houses and a great number of other shops and businesses were dependent for their profits on the 600,000 visitors who annually resorted to the island during the summer season. By the first of these Acts, a Committee of five persons was set up to deal with applications from persons who at the outbreak of War were engaged in the Visiting Industry and whose businesses had been affected to any substantial extent by the present emergency. The Committee was given power to extend, revoke, or vary any tenancy agreement, postpone payment of rents, alter any agreement for payment of interest on, or instalments of principal of, a mortgage, to rank as an additional mortgage, and alter any hire agreement other than a hire purchase agreement. Power was given to the Committee to recommend to the Lieutenant-Governor as the Chancellor of the Exchequer of the island that financial assistance by way of grant or loan might be made out of Government funds if approved by Tynwald. Power was also given to the Governor with the approval of Tynwald to modify, extend or vary the terms of mortgages, debenture stock, or annuities certificates used by any Insular Rating Authority. Power was also given to the Assessment Board to reduce assessments of value for rating purposes. Trustees were given similar powers to deal with their trust estates. The administration of this somewhat novel Act has done much to relieve the distress inevitably consequent on War in a visiting resort.

By the second Act, entitled " The War Emergency (Relief of Rates) Act, 1940, Tynwald was given power on the report of a Committee on the application of local and rating authorities and during the present emergency to authorize any such authority to borrow on mortgage of the rates to make up deficiencies in the estimates by reason of reduced rates or empty properties.

Of the Acts passed which do not refer specifically to, or are not limited in duration by, the War Emergency, the following may be quoted:—

Purchase Tax.—The Purchase Tax, 1940, which imposed a tax upon the wholesale value of all chargeable goods bought under a chargeable purchase, and which is practically identical in terms with the Imperial Act. So far as the Isle of Man is concerned, this tax was not required for insular purposes, but had to be passed in order to avoid the position which might arise in relation to goods—the great bulk of which are imported from the United Kingdom into the island. Whilst therefore this tax almost certainly would be abandoned after the War is over, its probable continuance in the United Kingdom may compel its continuance in the Isle of Man. Although the Manx Act provides for its coming to an end in August, 1941, it may be continued in force from year to year by Resolution of Tynwald.

Income Tax.—The Income Tax Amendment Act, 1940, removed the liability of persons or corporations not resident in the Isle of Man to pay the surtax imposed by the Income Tax (Surtax and Appropriation) Act, 1939.

Water.—The Water Supply Amendment Act, 1940, removed a doubt which has for a long time existed, whether water supplied to dwelling houses, shops, hotels and camps can be claimed to be for domestic purposes when it was being used for business purposes such as the keeping of boarding houses and the like.

Rating.—Power was given by the Public Authorities (Estimates) Act, 1940, to the Governor to alter the date on which by statute Rating Authorities were to make their estimates and levy their rates: such power to continue till determined by Resolution of Tynwald.

Horse Breeding.—By the Horse Breeding Act, 1940, the use of stallions for the service of mares who were immature, or for greater number of mares than specified in the licence, was prohibited.

Juries.—By the Jury Amendment Act, 1940, the law providing that the jurors to be summoned from each judicial district of the island for the trial of criminal cases in the Court (known as the General Gaol Delivery) should always be equal in number for each Sheading, was repealed.

Road Traffic.—By the Road Traffic Amendment Act, 1940, motor drivers who hold a current driving licence in any other of the British Isles were exempted from having to undergo tests of competence for driving in the Isle of Man.

Registration of Clubs.—By the Licensing (Registration of Clubs) Act, 1940, further provision was made for the procedure in relation to the grant of licences to sell intoxicating liquor in clubs.

Old Age Pensions.—A reduction of the age at which old age pensions are payable and provisions for the supplementing of such pensions and of pensions to widows, with the necessary transitional and other procedure to be followed was effected by the Old Age Pensions and Widows Pensions Act, 1940.

Hire Purchase.—The Hire Purchase Act, 1939, effected considerable changes in the law relating to Hire Purchase Agreement in the Island. It followed the Imperial Act, but with formal amendments to meet local conditions.

Rent and Mortgage.—By the Rent and Mortgage Interest Restrictions Acts 1940, the principal and amending Acts were continued in force till May 12, 1942, or until May 12 following the expiration of six months after such date as Tynwald may declare as that on which the War Emergency ended, whichever is the later.

Rabbits.—The great damage being done by the increasing number of rabbits to the crops and fields in the island is dealt with by the Prevention of Damage by Rabbits Act, 1940, which gives power to the Board of Agriculture to compel occupiers of land to destroy rabbits on their lands, for which purpose the Board may provide equipment and assistance, and power was given to use poisonous gas for the purpose.

Public Authorities.—The officers of public authorities who joined the services were dealt with by the Public Authorities Staff (War Service) Act, 1940, whereby power was given to the authority to make up the War Service pay of any officer to his civil pay to such an extent as the authority thought fit, and providing that his years of War Service would qualify for his superannuation allowance, and, in case of his death on War Service, for 26 weeks to pay his allowances to his dependents.

Surtax.—The adoption of the imposition of surtax in the island necessitated provisions copied from the Imperial Acts to be enacted by the Income Tax (Surtax Prevention of Evasion) Act, 1940, it having been found that certain persons and corporations liable to surtax, instead of contributing their share of the public expenses, were devising elaborate systems to evade their responsibilities by means of inter-connected and investment companies.

Workmen's Compensation.—Supplementary allowances to workmen entitled to weekly payments were provided for by the Workmen's Compensation (Supplementary Allowances) Act, 1940, which followed the main lines of the English Act dealing with the subject. (See *supra,* p. 11.)

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WHILST there has been considerable activity during the year on the part of the Lieutenant-Governor in the issue of various Orders and Regulations under the Defence of the Realm Act—Legislative activity has been small. Certain Emergency Acts have been passed, such as The Education (Emergency Provisions) Act, 1941, which gives the Manx Council of Education power by Order to modify or suspend any of the provisions of the Education Acts, either generally or with respect to any particular school or department of a school or area and to make other provisions in substitution of such provisions as are modified or suspended. Any such Order must be approved by Tynwald and shall not have effect any longer than one year after the present emergency has ceased.

Superannuation.—The Superannuation Scheme (War Service) Act, 1941, gives power to make provisions for the continuance of benefits under the Superannuation Scheme during the period of the present emergency, where the employee has undertaken service under the Crown or for War purposes, in order to ensure that the benefits accruing under the scheme to the employee, or accruing thereunder to any other person by reference to the employee's employment, should be the same, as nearly may be, as if he had not ceased to follow his employment. These provisions end on such date as Tynwald may declare the emergency comes to an end.

War Charities.—The War Charities Act, 1941, makes provisions for the registration and control of War Charities and prohibits appeals for such purpose unless the Charity is registered or exempted from registration under the Act on the lines of the English legislation passed in the previous year (*supra* p. 13).

Agriculture.—By the Agricultural (Miscellaneous War Provisions) Act, 1941, provision is made in respect of land taken in exercise of any power conferred by Regulations under the Emergency Powers Act, and provides that the authority who takes the land may hold it for a period not exceeding three years from the end of the war period and gives power to acquire such land subject to certain provisions as to payment, power to sell, and deals with the question of compensation to persons who have been dispossessed.

Elections.—By the House of Keys and Public Authorities Election Act, 1941, power was given to the Governor to extend the Membership of the House of

Keys and members of certain local authorities from year to year with the approval of Tynwald during the national emergency, and there were supplementary provisions relating to the lists of voters and as to the filling up of vacancies.

War Damage.—By the War Damage Act, 1941, provisions are made for the return by owners of buildings of full particulars thereof and of the replacement value of property destroyed or damaged by the operations of War, and setting up a fund for such replacement or repairs and providing for compulsory payment by such owners and mortgagees of annual contributions to such fund at rates of 5s. in respect of buildings other than agricultural buildings and 2s. 6d. in respect of agricultural buildings for every one hundred pounds of the replaceable value thereof, with provisions as to how payment and claims shall be made. Provision is made for damage to air raid shelters, requisitioned property, and liability of trustees as to the collection of information, inspection, and the like. Provisions were also made for insurance schemes being set up by the Insular Government in respect of war damage to businesses, goods, and furniture, the first two being compulsory and the second voluntary.

Highways.—In addition to these war measures there was passed the Highway (Unadopted Roads) Act, 1941, whereby ecclesiastical properties and war memorials are exempted from the expenses of private street works which were effected by the Highway Board under the principal Act of 1939, which gave the Highway Board certain powers of levying the expenses of making up unadopted highways upon the frontagers.

Sale of Food.—There was also passed the Sale of Food (Weights and Measures) Act, 1940, which provided for the better protection of the public in relation to the sale of food, including agricultural and horticultural produce. There were certain provisions relating to the prohibition of giving of short weight measure or number and enforcing statements as to weight or measure on pre-packed articles. There were provisions applicable to the sale of butcher's meat, the sale of bread, sale of milk, and there was power given to the Governor to make regulations and appoint inspectors to see that the terms of the Act are carried out.

Land Drainage.—There was also passed the Land Drainage Amendment Act, 1941, providing that any person having the control of a watercourse or the banks thereof or of any part thereof where an impediment occurs likely to lead to damage to property or roads must put the same in proper order, and the Highway Board is given power to serve a notice on the owner or person responsible to do so, subject to penalties on failure.

Public Health.—By the Local Government Amendment Act, 1941, power was given to the Local Authority to require any Justice of the Peace to visit a person who in the opinion of the Medical Officer of Health is in such condition by reason of neglect or failure to take care of himself as to be a danger to his health or that of other persons, and the Justice of the Peace may issue a certificate to that effect and the person be forcibly removed to the Infirmary.

Pensions.—By the Supplementary Pensions (Determination of Needs) Act, 1941, provisions were made as to determining and assessing the needs of applicants for supplementary pensions. Provisions were made for the assessment of needs of members of a household in connection with the Old Age and Widows' Pensions Act, 1940, and as to the treatment of War Savings and the like.

By the Old Age and Widows' Pensions (Blind Persons) Amendment Act, 1941, the former disqualification of blind old age pensioners for supplementary pensions was repealed.

Income Tax.—By the Income Tax (Income Tax Surtax Appropriation) Act, 1941, provisions were made for the levying of Surtax in the Isle of Man on incomes in excess of £2,000 a year at rates rising from 1s. to 4s. 9d. in the £, and certain amendments were made in the Income Tax Acts, with provisions for War Emergency.

4. EIRE

[*Contributed by* A. DENIS PRINGLE, ESQ.]

THIRTY-FIVE Public and four Private Acts were passed in 1940.

Emergency Legislation.—The Offences Against the State (Amendment) Act (No. 2) empowers *any* Minister of State by warrant to order the arrest and detention of any person who in his opinion is engaged in activities prejudicial to the preservation of public peace and order, or to the security of the State, and such person shall be detained so long as Part II of the said Act remains in force, or until he is released in accordance with further provisions of the Act which deal with the setting up of a Commission to whom such person may apply to have his case considered. Powers of searching, photographing, and taking fingerprints of persons arrested under the Act are given to the police, and there is a section providing that full particulars of all persons detained under the Act must be furnished by the Government to each House of the Oireachtas once at least in every six months. Under the Offences Against the State (Forfeiture) Act (No. 27) certain property coming or to come into the hands of the Minister for Justice, the Guards or the Defence Forces, which in the opinion of the Minister was in the owner's possession as a result of or in furtherance of any activity prejudicial to the peace and security of the State, may be declared by the Minister to be forfeited to the State, and may thereupon be dealt with in any of the ways prescribed by the Act. Provision is made for an Appeal against forfeiture being made by an application to the High Court on notice to the Attorney-General ; and the Court on such application may order the return of the property, or, if such return is impracticable, the payment of compensation. The Emergency Powers (Amendment) (No. 2) Act (No. 16) provides for summary trial by a military court in certain cases. Conviction carries sentence of death without right of appeal. The Defence Forces (Temporary Provisions) (No. 2) Act (No. 11) gives the Government power to declare the existence of a state of emergency and special powers are given as to the adaptation of existing transport facilities for the use of military traffic and for emergency billeting. Part III of the Act contains provisions relating to the command, constitution and organization of the Defence Forces, and the Act also deals with such matters as enlistment, discharge, discipline, offences against military law and investigation of charges against officers. Employers of reservists called out on permanent service and of soldiers enlisted in the Forces for a period of emergency are bound to reinstate such employees at the termination of their military service, unless they can satisfy the Court that it is not reasonably practicable to do so. S. 58 makes it an offence to recruit persons in Eire for the fighting forces of any other State, either by inducement, persuasion or advertisement.

Derelict Sites.—The Acquisition of Derelict Sites Act (No. 29) empowers sanitary authorities to acquire either compulsorily or by agreement any derelict site within their district, and to use same for any purpose connected with their powers or duties. The owner or occupier of such a site may apply to the District Justice to annul an acquisition order made by a sanitary authority, and the Act also contains provisions for the assessment and payment of compensation to persons whose lands are acquired.

Enforcement of Court Orders.—The Enforcement of Court Orders Act (No. 23) amends the earlier Act of 1926 by giving District Justices power to vary instalment orders in proper cases, and the Minister for Justice is empowered to release from prison for any reason which he deems sufficient, and after consultation with the appropriate Judge, persons imprisoned for failure to pay money under the Acts.

Education.—Two constituent schools to be known as the School of Celtic

Studies and the School of Theoretical Physics are established under the Institute for Advanced Studies Act (No. 13), which also provides for the setting up of the Dublin Institute for advanced studies. The functions and duties of the Council of the Institute are fully dealt with, and it is given power to make provision for the publication of original works resulting from study or research carried on in the schools and for scholarships. The Institute and the schools are to be State endowed.

Finance.—The Financial Act (No. 14) increases income tax by one shilling to 6s. 6d. in the £ and surtax on incomes over twenty thousand pounds is increased by 20 per cent.

Fire Brigades.—Long overdue provisions are contained in the Fire Brigades Act (No. 7) requiring every sanitary authority to make reasonable provision in its area for fire-fighting and rescue. With the sanction of the Minister for Local Government and Public Health one sanitary authority may enter into an agreement with another sanitary authority for the service of the fire brigade of the latter authority, who may in certain circumstances be ordered by the Minister to enter into such an agreement. A sanitary authority may serve a notice on a proprietor of any building in its district requiring him to take specified precautions against fire, and provision is made for an appeal against such a notice to the District Court whose decision is final. Wide powers of inspection of premises are given, and the person in control of a fire brigade at a fire is given power to cause buildings to be vacated, pulled down or demolished, and any person obstructing the exercise of these powers is made guilty of an offence punishable by imprisonment or fine or both. For the purposes of the Act, a sanitary authority may acquire land (including any easement in or right in, to or over land or water) compulsorily.

Local Government.—Very important alterations are made in local government by the County Management Act (No. 12), which provides for the administration and management of county councils and other local authorities by County Managers who are to exercise certain executive functions of such bodies particularly in relation to the officers and servants of such bodies. Certain functions are expressly reserved to the local bodies as, for instance, the making of a rate, the borrowing of money, the making of by-laws, the making of a scheme under the Town Planning Act or of an order under the Housing Acts, the admission of persons to the freedom of the borough and the supervision or removal of a County Manager (which can only be done with the sanction of the Minister). S. 19 provides that any act or thing which is required by law to be done by the local body by resolution may be done by the County Manager by an order in writing. A County Manager is entitled to attend meetings of the local bodies and to take part in discussions, as if he were a member, but he is not entitled to vote on any question which is decided by a vote of the members of such bodies. In all legal proceedings, civil or criminal, by or against a County Council the County Manager is to act on behalf of the Council. S. 33 provides that, upon the commencement of the Act, on such date as is fixed by the Minister, the functions of borough councils (save that of Dun Laoghaire) are to be transferred to the Corporations of such boroughs, and by s. 36 on the same date all Boards of Health are dissolved and their functions transferred to the County Councils. Provisions consequential on the dissolution of Board of Health are dealt with in the Third Schedule.

The inclusion within the Dublin City Area of the Urban District of Howth is provided for by the Local Government (Dublin) Amendment Act (No. 21), which also provides for the transfer of the duties of the Howth Urban District Council to the Dublin Corporation. Part III of the Act provides that, whenever an appointment is required to be made to the office of Dublin City Manager, the Local Appointments Commissioners shall select and recommend one person only for such appointment, and that person shall be appointed by the Minister, who has also power to appoint a temporary City Manager, pending such an appointment.

Minerals.—The Minerals Development Act (No. 31) is a comprehensive Act for the purpose of making further and better provision for the development of the mineral resources of the State. The Minister for Industry and Commerce is empowered, on notice to the occupier, to enter upon any land, or to grant a licence to any other person to do so, for the purpose of prospecting for minerals, whenever it appears to him that such land contains minerals which are not being worked at all, or are not being worked efficiently. Certain restrictions are placed on prospecting licences, and the Minister or licensee is liable to pay compensation for damage caused to the surface of the land. Part III provides for the compulsory acquisition by the State of unworked minerals and of mining facilities, subject to the payment of compensation, while Part IV entitles the Minister to make Mining leases in respect of State-owned minerals. A Mining Board, with power to examine witnesses and enter lands, is set up by Part V of the Act, and the working of minerals without lawful authority is made an offence by s. 74, and the onus of proving that he had lawful authority rests on the Defendant. The Schedule of the Act contains a list of seventy-one minerals to which the Act applies.

Miscellaneous.—The Exported Live Stock (Insurance) Act (No. 25) provides for the setting up of a Board, with power to establish, maintain and administer a fund, which is to be created by means of a levy on each animal exported from the country. Compensation for live stock lost or damaged in transit by sea or land is payable to any exporter who complies with the provisions of the Act, such compensation being assessed by a committee drawn from one or more of the live stock trades.

The Public Hospitals (Amendment) Act (No. 9) establishes central bureaux to facilitate the admission of any person as an intern patient.

The Unemployed (Relief Works) Act (No. 34) empowers the Minister for Local Government and Public Health to compel local authorities to undertake works of public utility for the purpose of relieving unemployment, and enables local authorities to borrow money and acquire land by agreement or compulsorliy for the purpose of carrying out such works.

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TWENTY-EIGHT Public Acts and two Private Acts were passed in the year.

Constitution.—The Second Amendment of the Constitution Act, 1941, made pursuant to Article 51 of the Constitution (which provides that amendments might be made by the Oireachtas within a period of three years after the date on which the first President entered upon his office (June 25th, 1938)), contained certain amendments of the Irish and English texts of sixteen Articles of the Constitution. A number of these are of minor importance, merely altering the wording of the text or adding words for the purpose of clarification, but some of them make material alterations and are therefore worthy of note. For instance, Article 25 (4), dealing with the signature of the text of a law by the President, now provides that he may sign either the Irish or English text or both, and that in case of conflict between the texts the Irish text is to prevail. Provision is also made for the preparation of a new text in both languages of the Constitution as amended. Article 26 (which deals with the reference of the question as to whether a Bill is unconstitutional to the Supreme Court) is amended by providing that the judgment of the Court shall be pronounced by *one* Judge and that no other opinion, whether assenting or dissenting, shall be pronounced, nor shall the existence of any such other opinion be disclosed. Article 28 (3) (dealing with " time of war and armed rebellion ") is amended by extending the provisions of the Article to such time after the termination of such war or armed rebellion as the Oireachtas may determine to be the time that the emergency occasioned thereby has ceased.

Article 34 (dealing with the Courts) is amended by providing that, save in such special and limited cases as may be prescribed by law, justice shall be administered *in public*. Article 40 (4) (dealing with *Habeas Corpus*) is amended in several respects, and particularly by providing that, if the High Court is satisfied that a person is being detained in accordance with a law, but that such law is invalid having regard to the provisions of the Constitution, the Court shall refer the question of the validity of such law to the Supreme Court by way of case stated.

Children.—A number of amendments are made to the Children Act, 1908, by the Children Act (No. 12). Provision is made for " resident managers " of certified schools. The age up to which youthful offenders may be sent to reformatory schools is raised from sixteen to seventeen, and the age up to which a child may be sent to an industrial school is raised from fourteen to fifteen. Additions to the cases in which children may be sent to industrial schools are made, for instance, where a child is found destitute and is not an orphan and his parent or parents cannot support him, such child may be sent to an industrial school with the parents' consent, or in the case of mental incapacity or desertion on the part of the parents, without their consent. The minimum period of detention in a reformatory school is reduced from three years to two, and the maximum period from five to four years (s. 11). The Minister for Education is empowered, with the consent of a child's parents, to direct the detention of such child in an industrial school beyond the period specified under a detention order, for the purpose of the completion by such child of any course of education or training (s. 12). The minimum age for imprisonment for offences in relation to certified schools is raised from sixteen to seventeen. The definition of " child " in the Summary Jurisdiction Over Children (Ireland) Act, 1884, is altered to include children up to fifteen years and the definition of " young persons " to include persons up to seventeen years (s. 28).

Finance.—The Finance Act (No. 14) increases income tax by one shilling to seven shillings and sixpence in the pound. Certain relief in respect of income tax paid in the United States of America or in any of the members of the British Commonwealth of Nations (other than Great Britain, which is already provided for by the Agreement of 1928), or in a British possession, is provided for by s. 3. A new tax called " excess sur-tax " is created in Part II of the Act. This tax is payable where the total income is over one thousand five hundred pounds and includes profits from any trade or business, except husbandry, or any office or employment, or any profession the profits of which are wholly or mainly dependent on personal qualifications and in which no capital expenditure or only capital expenditure of a comparatively small amount is required. The tax is payable at seven shillings and sixpence in the pound on either (*a*) the amount by which the profits exceed the " standard profits " calculated in accordance with the Act, or (*b*) the amount by which the total income exceeds the " standard total income " calculated in accordance with the Act, whichever is the lesser. Relief from sur-tax is given in certain cases where persons are chargeable with excess sur-tax. Betting duty is raised from 5 per cent. to 7½ per cent. (s. 18). Relief from excise duty in respect of a trailer drawn by a mechanically propelled vehicle is allowed, where the goods conveyed consist of turf (s. 22), or where the trailer is used for conveying a petrol substitute or apparatus for making a petrol-substitute (s. 23). Excess corporation profits tax at 50 per cent. is provided for by s. 37.

Local Government.—The Local Government Act (No. 23) is a long Act containing a number of highly important amendments of the existing law. Part

II deals with offices and employments under local authorities and gives wide powers to the Minister for Local Government and Public Health in regard to the appointment, duties and removal of such officers and employees. Part III deals with the constitution and procedure of Local Authorities. A novel provision is introduced in regard to the situation arising on the election of a lord mayor or mayor of a county or other borough, or of the chairman of any local authority, where all the candidates *except two* are eliminated, and the two candidates receive an equal number of votes, the question as to who is to be elected is to be decided *by lot* (s. 43). The Minister is given power in certain circumstances to remove the members of a local authority from office and to appoint a commissioner in their place. Far-reaching amendments in the law of rating are contained in Part IV of the Act. S. 57 provides that, if a member of a local authority owes rates at the end of the financial year, he is disqualified from continuing to be such member. S. 59 empowers a rate-collector to levy any sum due for rates by distress upon giving a fourteen-day notice at any time after the passing of six days from the date of demand, and he is empowered to distrain on goods found upon the premises out of which the rates are payable, *whether the goods belong to the person liable or not,* and the only remedy of a person whose goods are so seized is against the defaulting ratepayer. Wide powers of amendment of rates are given to the local authority (s. 60). Where the inhabitants of a locality establish a council, committee or other body " for furthering the general social and economic interests of such inhabitants," the county council may declare such body to be an " approved local council " and may delegate any of their powers to such body. (Part VIII.)

Minerals.—The Minerals Exploration and Development Act (No. 13) makes provision for the promotion by the Minister of Industry and Commerce of a limited company for prospecting for and developing, minerals other than coal.

Police.—The Garda Siochana (Compensation) Act (No. 19) makes provision for the payment of compensation for members of the Police Force killed or injured maliciously in the course of or in relation to their duties. Application in the first instance must be made to the Minister for Justice who, in every case of death, or in the case of injuries unless he is of the opinion that the injuries are of a minor character, must authorize the applicant to apply to the High Court for compensation. In the case of minor injuries the Minister may either refuse the application or award compensation up to £100.

Trade Unions.—An Act occasioning considerable public interest and controversy is the Trade Union Act (No. 22). The preamble states that the Act is " for the licensing of bodies carrying on negotiations for fixing wages or other conditions of employment, to provide for the establishment of a tribunal having power to restrict the rights of organization of trade unions, and for other matters connected with the matters aforesaid." S. 6 provides that no body of persons (other than an " excepted body ") shall carry on negotiations for the fixing of wages or other conditions of employment, unless such body is the holder of a licence from the Minister of Industry and Commerce, and by s. 7 such a licence can only be granted to an " authorized " trade union. " Excepted bodies " comprise, among others, a body which carries on negotiations for the fixing of wages of its own employees alone, a civil service staff association recognized by the Minister for Finance, and a body which the Minister by order declares not to be subject to the section. An " authorized trade union " must be a body which has made a deposit of funds in the High Court in accordance with the Act, and which is either registered under the Trade Union Acts, 1871 to 1935, or, if not so registered, is a trade union under the law of another country and its headquarters are situated in that country. The amount of funds which must be lodged varies according to the number of members from £1,000 in the case of 500 members or less, to £10,000 in the case of 30,000 members or over. The privilege of being licensed under the Act carries with it certain obligations, for instance, the inclusion in the rules of provisions specifying the conditions of entry into and cessor of membership, and the maintenance at the registered office of a register of members open for free public inspection. Part III of the Act provides for the establishment by the Minister of a Tribunal to hear and decide applications for a determination as to whether a trade union which claims to have organized a majority of either employers or employees of any particular class should have the sole right to such organization. Any trade union aggrieved by a determination of the Tribunal may appeal to an Appeal Board presided over by a Judge of the High Court or Circuit Court. If a decision is given granting a monopoly to one or more trade unions in respect of any particular class, it is an offence for any other trade union to accept as a new member any person of that class. An important section of the Act is s. 11, which provides that ss. 2, 3 and 4 of the Trade Disputes Act, 1906, shall only apply to authorized trade unions which are holders of a licence from the Minister. The effect of this section is that unlicensed trade unions will not have the immunity conferred by the Act of 1906 in respect of certain acts done in furtherance of a trade dispute, nor will they have the right of peaceful picketing, and the prohibition of actions of tort provided by s. 4 of that Act will not apply to such bodies. Questions as to the constitutionality of the Act, having regard to Article 40 (6) of the Constitution (dealing with the right of citizens to form associations and unions), have been raised, but so far no such question has come before the Courts.

War Damage.—The Neutrality (War Damage to Property) Act(No. 24) makes provision for the payment out of public funds of compensation to persons who, after August 26th, 1940, suffer injury to their property in Eire or in territorial waters as a consequence of an act of the armed forces of a belligerent, or of an accidental occurrence arising from something done outside Eire by such armed forces. Local authorities are not entitled to claim compensation for injury to a road, etc., which they are bound to maintain, and no claim can be made by a person who has received compensation from a foreign government or authority. Applications in the first instance must be made to the Minister for Finance and, in default of agreement, an application must be brought before the Circuit Court. In the case of injury to a building an award of compensation must be subject to a "reinstatement condition," but the Minister is empowered, in special circumstances, to waive the compliance with such condition. A special scale of compensation for the loss of wills, probates, title-deeds, written contracts, share certificates and official copies of documents relating to legal proceedings, is to be prepared by the Minister after consultation with the Attorney-General and the President of the Incorporated Law Society. Provision is made for the deduction by the Minister from the award of any insurance moneys becoming payable to the claimant in respect of the damage, and also of any moneys due by the claimant to the State. An injury to which the Act applies cannot be the subject of an action for damages or of any proceedings under the Criminal Injuries Acts, and no compensation awarded under the Act can be recovered after a lapse of five years from the date of the award.

II. NORTH AMERICA

1. DOMINION OF CANADA

[*Contributed by* FREDERICK READ, ESQ., LL.B., *Professor of Law, Manitoba Law School.*]

THE First Session of the Nineteenth Parliament began on May 16, 1940, and closed by prorogation on November 5, 1940. Of the 116 Acts passed, 47 were Public, 7 were Private, and 62 dealt with divorces.

Air Force.—C. 15 makes provision in respect of the constitution and government of the Royal Canadian Air Force. The Command in Chief of the Air Force is declared to continue to be vested in the King and is exercisable by His Majesty or by the Governor-General on His Majesty's behalf. The Air Force continues as presently constituted under the Aeronautics Act, and all Orders-in-Council and other orders made in virtue of that Act, in so far as they are not inconsistent with the Act now under review, which is referred to as The Royal Canadian Air Force Act, continue in force until rescinded or altered under the last-named Act. The provisions of the Air Force Act for the time being in force in the United Kingdom and not inconsistent with The Royal Canadian Air Force Act, or with any regulation, will have force and effect as of the provisions formed part of the last-named Act, and any powers conferred by the said Act will be exercisable by the Governor-in-General or by such other party as may be specified by regulation.

Air Lines.—The Trans-Canada Air Lines Act, 1937, is amended by c. 17, which provides that in January in each year, commencing 1941, while the Trans-Canada contract is in force, the Governor-in-Council on joint recommendation of the Minister of Transport and the Postmaster-General shall fix the rate or rates for the current year. The Act came into force on January 1st, 1940.

Munitions and Supply.—C. 31 amends the Department of Munitions and Supply Act of 1939 in many respects. Amongst these may be noted that the definition of " defence projects " includes the construction, erection, repair, improvement, maintenance or extension of such defence projects. The Minister's powers to purchase munitions of war and supplies is greatly extended, and the Minister may, if he thinks fit, procure the incorporation of companies for the purpose of facilitating the carrying out of any of the provisions of the Act. The Act contains provisions regarding the manner in which contracts shall be entered into, and the terms which the contracts shall contain, regarding the purchase of munitions of war or supplies, and the Minister may give directions to any contractor that any work in connection with munitions of war or supplies or defence projects shall be given priority over other work. The Minister may also give to a contractor directions requiring him to take such measures as may be specified for the purpose of securing the due functioning of the undertaking, where it appears to the Minister that the carrying on of that undertaking is or is likely to be essential in time of war.

National Defence.—C. 9 enables the Governor-General to make regulations prescribing the manner in which there will be collected, administered and distributed, the service estates of members of the Naval, Military or Air Force of Canada who die while on active service, or who die while receiving hospital treatment or institutional care under the control or direction of the Department of Pensions and National Health on account of any disability suffered or incurred whilst serving on active service. The term " service estate " means that part of the personal estate of the deceased which consists of balance of pay and allowances and all other emoluments emanating from the Crown which at the date of death are due or otherwise payable, and effects issued by the Crown which, under the regulations applicable to a member of any of the Forces, he is permitted to retain, and all personal belongings found on the deceased and in camp, quarters or otherwise in the care or custody of the Naval, Military or Air Force Authorities, including cash on hand and personal articles and effects. S. 3. of the Treachery Act (c. 43) provides that if, with intent to help the enemy, any person does, or attempts or conspires with any other person to do, any Act which is designed or likely to give assistance to the naval, military or air operations of the enemy, to impede the operations of His Majest's Forces, or to endanger life, he will be guilty of an indictable offence, and shall on conviction suffer death. If with intent to assist the enemy any person does any act which is likely to assist the enemy, or to prejudice the public safety, the defence of Canada, or the efficient prosecution of the war, then, without prejudice to the law relating to treason or the provisions of s. 3 mentioned above, he will be guilty of an indictable offence, and shall on conviction be liable to imprisonment for life. The Act empowers the Attorney-General of Canada to direct that an enemy alien may be prosecuted for an offence against s. 3 of the Act before a court martial. No person who has been convicted of an offence against the Act and who has given notice of appeal or made application for leave to appeal from such conviction, will, notwithstanding any statutory provision or other law to the contrary, be admitted to bail pending the determination of the appeal. The Act will expire on the issue of a proclamation by His Majesty, or under the authority of the Governor-in-Council, that the war no longer exists. C. 28 provides for the payment of compensation where property is taken over for war purposes.

National Railways.—C. 24 authorizes the provision of moneys to meet certain capital expenditures made and capital indebtedness incurred by the Canadian National Railway system during the calendar year 1940, provides for the refunding of financial obligations and authorizes the guarantee by His Majesty of certain securities to be issued by the Canadian National Railway Company. C. 4 appoints George A. Touche and Company as independent auditors for the year 1940, to make a continuous audit of the accounts of National Railways as defined in the Canadian National-Canadian Pacific Act, 1933.

National Resources.—The National Resources Mobilization Act, 1940 (c. 13), enables the Governor-in-Council to do and authorize such acts and things, and from time to time to make such orders and regulations, requiring persons to place themselves, their services and their property, at the disposal of His Majesty in the right of Canada, as may be deemed necessary or expedient for securing the public safety, the defence of Canada, the maintenance of public order, or the efficient prosecution of the war, or for maintaining supplies or services essential to the life of the community. The powers so conferred may not be exercised for the purpose of requiring persons to serve in the military, naval or air forces outside of Canada and the territorial waters thereof, and the powers conferred by the Act are to remain in force only during the continuation of the state of war now existing.

Public Loans.—C. 11 enables the Governor-in-Council, in addition to the sums now remaining unborrowed and negotiable of the loans authorized by Parliament by any Act previously passed, to raise by way of loan a sum not exceeding $750,000,000 for paying or redeeming the whole or any portion of loans or obligations of Canada, and also for purchasing from time to time unmatured securities of Canada to be withdrawn from circulation or resold, and for public works and general purposes. The principal raised by way of loan under the Act, and the interest thereon, are to be a charge upon and payable out of the Consolidated Reserve Fund.

Taxation.—The Excess Profits Tax Act, 1940 (c. 32) provides for the levying of an excess profit tax in addition to any other tax or duty payable under any other Act. C. 34 amends the Income War Tax Act by increasing the tax payable under that Act in very many cases, and c. 33 amends The Excise Act, 1934. Under c. 41 the Special War Revenue Act is amended with respect to the taxes on matches, cigarette papers, cigarette paper tubes, new and unused automobiles, furs and other goods. In addition to any duty or tax that may be payable under the Special War Revenue Act or any other Statute, there is also to be levied a War Exchange tax of ten per cent. on the value for duty on all goods (with certain specified exemptions) imported into Canada, the tax to be payable by the importer or transferee who takes the goods out of bond for consumption at the time when the goods are imported or taken out of warehouse for consumption.

Unemployment.—C. 44 provides for the establishment of an Unemployment Insurance Commission, and for insurance against unemployment ; and it also establishes an employment service. Under the provisions of the Act the funds required for providing insurance benefit and for making other payments which under the Act are to be made out of the Unemployment Insurance Fund are to be derived partly from moneys provided by Parliament, partly from contributions by employed persons and partly from contributions by the employers of those persons.

The Unemployment and Agricultural Assistance Act, 1940, c. 23, was passed for the purpose of assisting in the alleviation of unemployment and agricultural distress. The preamble to the Act sets out that notwithstanding greatly increased employment under war conditions, it appears still to be necessary in the national interest to make provision for some contribution by the Dominion, where circumstances so warrant, to supplement the measures taken by the Provinces towards providing assistance to those in need, establishing unemployed persons in employment and training and fitting suitable persons for productive occupations, thereby lessening Provincial and municipal burdens in so far as they may be consequent upon extraordinary conditions of unemployment heretofore existing, and at the same time developing the economic capacity of the nation to carry on the war. The Act is to be administered by the Minister of Labour, and empowers the Governor-in-Council to enter into agreements with the Provinces regarding the alleviation of unemployment conditions and of agricultural distress, and with industrialists respecting extension of industrial employment. The Agreement may provide for payment for any of the purposes mentioned above ; and grants of financial assistance may be made to any Province for the purpose of the Act.

War Services.—C. 22 provides for the establishment of a Department of National War Services to assist in carrying out the purposes of the National Resources Mobilization Act, 1940. The Minister of National War Services for the time being is to preside over, and to have the administration and direction of, the Department. The duty of the Minister is to assist in carrying out the objects of the National Resources Mobilization Act, 1940, and under the Act the Minister may conduct national registrations and make surveys, promote, organize and co-ordinate different forms of voluntary assistance with a view to the most effective use of personal services or material contributions for the prosecution of the war and the welfare of the nation. He may also co-ordinate the existing public information services of the Government and originate or employ other means in order that the same may be used in the most efficient way for obtaining the utmost aid from the people of Canada in the national emergency which has arisen.

1941

[*Contributed by* JAMES FRANCIS, ESQ., *Solicitor, Department of the Secretary of State.*]

THE Second Session of the Nineteenth Parliament began on November 7, 1940, and closed by prorogation on January 21, 1942. Of the 89 Acts passed, forty-nine dealt with divorces, thirty-two were Public, and eight were Private.

The Armed Forces.—The Senate and House of Commons Act has been amended by c. 26, the purpose of the amendment being to provide that persons serving in the Air Force shall not, while on active service with the Air Forces of Canada or of the Crown, be ineligible as members of the House of Commons. The Act already provides for persons serving in the Naval or Military Forces.

The provisions of the Pension Act as amended by c. 23 are made to apply to members of the Canadian Forces serving in the present war. The amending Act makes certain changes in principle and provides for some changes in the procedure and administration of the Act. A new sub-section (s.s. 3 of s. 5 of the Act), which gives the Pension Commission the power to determine any question of interpretation of the Act, is of interest. The decision of the Commission on any such question shall be final. In all other respects the Commission has full and unrestricted power and authority and the exclusive jurisdiction to deal with pension matters. Another new provision is that which gives the Commission discretion in cases of necessitous circumstances to award pension for disability or death incurred while on service in the present war in respect of which a pension may not otherwise be awarded. The provision respecting compassionate allowances for special cases has been amended to permit the Commission to grant a compassionate allowance or supplementary award in any case which it considers to be specially meritorious, but in which it has decided that the applicant is otherwise unqualified to receive such an award or allowance. The " date line " provision has been changed, and a member of the Forces who saw service in a theatre of actual war during the last war may now apply for pension at any time. There is no date line in respect of service in the present conflict. The widow of a member of the Forces who serves during the present war will, in all cases, be entitled to pension if they were married before he was granted a pension for the injury or disease that resulted in his death. She will also be entitled if married after the husband was pensioned and he dies more than a year after the marriage or, should he die before the year is out, if the Commission is satisfied that he had a reasonable expectation of living for at least a year after the marriage. A new section provides for the extension of the benefits of the Act in so far as such benefits are not provided under the laws of the United Kingdom to residents of Canada at the commencement of the present war who subsequently serve in the Forces of and are granted a pension by the United Kingdom. This covers not only the pilots trained under the Joint Air Training Scheme who subsequently serve in the Royal Air Force, but also any other Canadian residents who join or are transferred to the Imperial Forces after September 1st, 1939. It also includes individuals who of their own volition went over and joined the Imperial Forces during the four years immediately preceding the outbreak of the present war. It provides not only for the supplementation of Imperial pensions to Canadian rates, but also for the additional benefits which are provided under the Canadian Pension Act, but not under the Imperial regulations.

Customs and Excise.—The Customs Tariff was amended by c. 13. The rate of additional customs duties on wines of all kinds is increased. The amendment also changes the rates of customs duties on twenty-two enumerated items of the Tariff.

Two amendments were made to the Special War Revenue Act during the session by c. 1 and c. 27 which substituted new Schedules for Schedule I of the

Act, increasing the excise taxes on automobiles, toilet articles, cameras, radio receiving sets, electrical appliances and other specified goods. C. 27 also imposes a new tax of five per cent. of the total amount of bets made through the agency of pari-mutuel systems on horse races at race meetings. The tax on long-distance telephone calls has been increased. The tax formerly imposed on pullman and parlour car seats on trains has been extended to all railway, bus, steamship and aircraft transportation tickets, and provision is made for the licensing of persons selling such tickets. A new tax of twenty per cent. is imposed on the admission price to places of amusement.

The Excise Act, 1934, has been amended by c. 16 to bring the legislation abreast of developments in the tobacco manufacturing trade. Henceforth Canadian raw leaf tobacco will be processed, stamped and sold by licensed tobacco packers and licensed manufacturers exclusively, the licensed " raw leaf dealer," introduced in 1940, having now been eliminated. The provisions of the Act relating to the manufacture and sale of common Canada twist by cultivators have been repealed, this trade having declined to the point that for the past several years one such licence only has been in existence and the quantity produced has been small. Since a number of licensed tobacco manufacturers include this article in their products its manufacture by cultivators has been discontinued, thus securing uniformity and better protection of the revenue. The excise tax on domestic and imported beers and malt liquors, on domestic and imported malt, and on domestic and imported malt syrup, has been increased.

Financial.—By c. 14, which is an Act to authorize the levying of duties in respect of successions, the Dominion Government has been induced by the compelling need for revenue for the war effort to enter a field of taxation that had hitherto been occupied solely by the Provinces. It was felt that the Provinces have not fully occupied this field and that there is room for an additional and independent Dominion tax at moderate rates, made up in the light of the existing provincial rates. As it would be manifestly unfair to pick out for special taxation that part of the population whose relatives happen to die during the war rather than subsequently thereto, this measure may be regarded as being of more permanence in the field of Dominion taxation than, for example, the current increases in income tax and in the indirect taxes. The Act introduces a composite type of tax similar to that used by most of the Provinces of Canada. It applies to the amount passing to each person sharing in the estate, and the rate is determined mainly by the size of the amount which the individual receives, but also by the size of the estate itself, as well as the relationship of the beneficiary to the deceased. In determining the rate more emphasis has been laid upon the size of the amount received than is the case with similar provincial legislation, this being considered the better method of judging ability to pay. The general level of the rates is roughly comparable with the level of the provincial taxes, although probably somewhat lighter on the average, and the combination of the new Dominion rates and the provincial rates is expected to result in a total tax of about the same general magnitude as is paid in Great Britain, but with considerable differences in detail due to the different and complex natures of the taxes. The total Canadian rates would be somewhat higher than the British rates on others than close relatives, while they will tend to be lower where the estate is divided among a number of members of the deceased's own family. The tax consists of an Initial Duty and an Additional Duty. Rates of initial duty range from 0.5 per cent. on an aggregate net value of $25,000 to 10 per cent. on an aggregate net value of $5,000,000 and over. Rates of additional duty apply to the benefits passing to each successor, and range, in the case of the widow and young and dependent children (Class A), from 2 per cent. on $5,000 to 17 per cent. on $5,000,000 and over. The rates of additional duty on successors in Classes B, C, and D are somewhat higher. An exemption of $20,000 is made on property passing to the widow of a deceased, so that in the case of the widow the tax is payable only on the excess over that amount. A similar exemption of $5,000 is provided for each child. The widow and children also benefit under the charging provisions by a lower rate than other successors. The shares of other beneficiaries are taxable if the amount received is over $1,000. Estates of less than $5,000 are not subject to the tax. The new tax applies to all the property of persons domiciled in Canada at the time of their death, with the exception of real estate in other countries. It also applies to property in Canada, real and personal, of persons dying domiciled in other countries. It is made applicable not only to property owned by the deceased at death, but also to certain other properties passing at the time of death, transferred by the deceased in contemplation of death, or given within three years of his death, and various other specified transfers. Special increased exemptions have been provided for the families of members of the armed forces whose death occurs in such circumstances as would entitle the widow or dependent children to pension under the Pension Act. When the Act gets into full operation the tax is expected to bring in an addition of about $20,000,000 a year to the Dominion revenue. One of the technical difficulties involved in the application of the new measure is due to the fact that while the tax applies to all the Provinces the laws of succession in the Provinces differ considerably one from the other. It is apparent, accordingly, that certain dispositions of property, deemed by the Dominion Act to be included in a succession for the purposes of the Act, would not be the subject of " succession " as such under presently existing provincial laws. It is thought, however, that as the Dominion is not precluded from enacting in a section of broad scope that certain dispositions of property shall, for the purposes of the tax, be deemed to be " succession," any difficulty of this kind that may arise will not be insurmountable.

The Income War Tax Act, as amended by c. 18, introduces new and higher rates of tax on the earned and investment incomes of individuals and on the income of non-resident owned investment corporations. On personal incomes the new rates range from 15 per cent. on the first $1,000 of net income to $358,580.00 upon net income of $500,000, and 85 per cent. upon the amount by which the income exceeds $500,000. The practice of regarding earned income of over $14,000 as investment income has been changed by the redefinition of " earned income," and all earned income is now recognized as such, irrespective of the amount. To prevent double taxation the Minister may now in his discretion allow a taxpayer to deduct from the sum total of his income tax and excess profits tax the sum total of such taxes paid to Great Britain, to any of the self-governing Dominions or Dependencies or to any foreign country, wherever similar credits are allowed in respect of profits derived from Canadian sources. A number of other changes respecting allowances and exemptions have been made. The last date for the filing of personal income tax returns has been changed from April 30th to March 31st, but both individual and corporate taxpayers may now pay the tax by instalments, without interest. Corporations may file their returns at any time within four months from the close of their fiscal periods. New rates of gift tax are introduced, ranging from 7 per cent. on gifts up to and including $5,000 to 25 per cent. on gifts of $1,000,000. The rates of National Defence Tax, introduced in 1940, have been increased somewhat, but more liberal allowances have been granted for dependents, and it is provided that the tax shall not be payable where payment would reduce the income of the taxpayer to less than $660 to the extent that such income would be reduced below this figure.

The Excess Profits Tax Act, 1940, has been amended in a number of particulars by c. 15. One amendment removes from the profits subject to the 75 per cent. rate of taxation any constructive dividend received by a corporation as a result of the winding-up, discontinuance of business or reorganization of another corporation. This exemption is restricted to cases where the corporation receiving or paying the dividend is controlled by more than twenty-five shareholders, so that it shall not be used as a means of avoiding personal income taxes. The definitions of the terms " standard period " and " standard profits " have been amended. The basis of adjusting standard profits by reason of changes in capital employed has been altered by providing (*a*) a fixed rate of 7½ per cent. of the capital added or withdrawn, and (*b*) a basis for taking full cognizance of changes in capital made during the standard period. The re-enactment of s. 5 enables the taxpayer whose business was depressed during the standard period to make a preliminary estimate of his standard profits and to pay the self-estimated tax, and power is given to the Board of Referees to deal with cases of exceptional hardship. The inventory-reserve provision against future depreciation has been amended by changing the maximum quantity which may be protected from a " basic quantity " to a " normal quantity " as indicated by the average quantity on hand during the standard period. Other amendments include a proviso to prevent the tax from reducing the profits of a taxpayer below $5,000, and a provision exempting the profits of diversified investment corporations on compliance with certain specified conditions. The provision against double taxation has been restated with the additional safeguard against double taxation due to the existence of both income taxes and excess profits taxes in most of the countries, including Great Britain and the self-governing Dominions and Dependencies, that give reciprocal allowance with respect to Canadian taxes. (See also amendment to Income War Tax Act, above.) A further change has been made by providing that if the facts so warrant the Minister may recognize as permanently invested capital the amount of capital furnished by a parent to a subsidiary corporation which is in the nature of permanently invested non-interest bearing capital, and otherwise qualifies as invested rather than borrowed capital.

The War Exchange Conservation Act, 1940 (c. 2) was passed for the purpose of maintaining and increasing Canada's supply of foreign exchange during the war period. The Act prohibits the importation of some 230 classes of enumerated goods produced in countries other than those within the sterling area, this being defined for the purposes of the Act as the territories under the sovereignty, protection, suzerainty or mandate of His Majesty, and such other territories as may be designated by the Governor-in-Council. However, the Minister of National Revenue may, in his discretion, exempt any goods from the operation of the Act for such periods of time as he may deem desirable, and may impose conditions and grant permits for the importation of such goods. By Part II of the Act fifty-seven classes of goods manufactured or produced in the United Kingdom, when imported under conditions entitling them to entry under the British Preferential Tariff of Canada, shall be exempt from the rates of duty set out in Schedule A to the Customs Tariff and shall, instead, be subject to the duties specified in Schedule 2 to this Act. The Act further provides that the Governor-in-Council may, on the recommendation of the Minister of Finance, enter into agreements with individuals, partnerships or corporations to grant assistance by way of special tax credits or allowances for depreciation or depletion under the Income War Tax Act and The Excess Profits Tax Act if such assistance is considered necessary to expand exports or to maintain exports at higher levels than would otherwise be possible. By c. 29, enacted later in the session, special provision was made for agreements with individuals, partnerships or corporations operating oil wells. A number of changes were made by c. 29 to the Schedules to the Act.

Foods.—The Meat and Canned Foods Act has been amended by c. 6. The definition " ' dry lobster meat ' or ' dry meat ' " has been changed by omitting the words ' dry lobster meat,' the object being to enable the Department of Fisheries to recommend the adoption of further regulations respecting the grading and inspection of canned lobster products. The provisions for the inspection of canned fish and shellfish have been extended to include fish and shellfish intended for canning, and for their inspection during the whole course of preparation and packing and thereafter as required by the regulations. Provision has now been made also for the seizure and confiscation of any unsound fish or shellfish found during the process of preparing and packing. Grades of canned lobster are to be designated by regulation and, if considered necessary, this product may be classified, inspected and labelled as provided by the regulations. Canned fish or shellfish imported into Canada must now be labelled to conform to such requirements as the Governor-in-Council by regulation prescribe. A further provision requires that canned fish and shellfish shall be offered for sale only in such cans or containers as may be prescribed by regulation and that such containers shall contain the quality, quantity or weight so prescribed. This contemplates the grading, inspection and labelling of canned lobster under the authority of the regulations.

Game Conservation.—The Game Export Act, which is an Act to control the export of game, has been enacted by c. 17. Its purpose is to supplement provincial game legislation by prohibiting shipments of game out of any Province without proper provincial authorization. This involves an exercise of the Dominion's jurisdiction in respect of export either from Canada or from one Province to another, a subject not within provincial jurisdiction. The administration of wild life resources rests with provincial and territorial authorities, except that the Dominion Government, under the Migratory Birds Convention Act, makes and enforces regulations for the protection of migratory birds in fulfilment of its obligations under the Migratory Birds Treaty with the United States. All Provinces and territories have enacted laws protecting wild life, thus carrying out their administrative responsibilities. It has been possible, however, for a person to violate provincial game laws and avoid payment of provincial royalties by removing the game or fur in his possession to another Province, with the result that the purpose of provincial laws protecting wild life has been defeated and the Provinces have been deprived of royalties due to them. As indicated above, the Act prohibits the shipment beyond the limits of the Province of any game killed therein except under the authority of an export permit duly issued under the laws of that Province. The Governor-in-Council may when requested by any Province to do so declare by proclamation that upon a date to be named therein the Act shall be in force in that Province, and thereupon the prohibition applies throughout Canada with respect to all game killed therein.

Labour.—Under s. 12 of the Industrial Disputes Investigation Act no person having any direct pecuniary interest in the issue of a dispute referred to a Board may act as a member of that Board. The disqualification has been extended by c. 20 to persons who have within a period of six months preceding the application acted as solicitor, legal adviser, counsel or paid agent of either of the parties to the dispute.

Marking of Precious Metals.—C. 8 amends the Precious Metals Marking Act to control the marking of all gold-filled watch cases, including the cases of gold-filled watches now so frequently worn on the wrist when made partly of precious metals and partly of base metals. The specifications as to thickness and quality of gold and the manner of its application remain the same except that it is not necessary to solder a sheet of gold on the inside of the back of a gold-filled bracelet watch case. The amendment also provides that if the words " Gold Filled " or words indicating that the article is gold-filled are marked on the outer surface of that part of a bracelet watch case that is of that quality, the words " Base Metal " shall be marked legibly on that part of the case that is not gold-filled quality. A new s.s. (8) to s. 10 of the Act establishes a minimum standard for gold-filled articles other than watch cases of 1/10-12K before the articles can be marked " Gold Filled " or " G.F." If the article is less than 1/10-12K, a quality mark " Rolled Plate " or " R.P." is used. If the article is of a lesser quality, and the gold applied by any other process than by soldering or brazing, the word " Gilt " is used. In the case of gold-filled and rolled plate articles the sheet of gold must be soldered to the base metal. Under this amendment, all spectacle and eyeglass wares must bear a stamp of quality such as " Gold Filled " or " G.F.," " Rolled Plate " or " R.P." or " Gilt."

Railways.—C. 5 appoints George A. Touche and Company, of Toronto and Montreal, as independent auditors for 1941, to make a continuous audit of the accounts of National Railways.

War Charities.—C. 28 amends The War Charities Act, 1939, by stating that the Act is now being administered by the Minister of National War Services. The Act formerly came under the Secretary of State, but has been transferred by Order in Council to War Services. A further amendment enlarges the operation of the Act to take in funds raised for the purchase of war supplies, which were not previously included, in addition to funds raised for charitable war purposes. A few changes have also been made with a view to obtaining better supervision and control, the most important being the new provision giving the Charities Co-ordinating Board the right to secure possession of a fund which has not been registered in accordance with the Act.

2. ALBERTA

THIRTY-FIVE Acts were passed in the sessions of 1940 and include legislation of a local and personal character, as well as the ordinary Public General Acts. Among the latter are four deserving of special mention.

Soldiers' Relief.—No. 4 provides for men on active service to be released of obligations and includes an exemption of their home property from assessment and taxation. They are also granted relief from actions being taken against them for payments of debts. The Act also makes provision for the administration of the property and estates of soldiers who are defined to be persons serving either in the military, naval or air forces of Canada or in forces " of His Majesty raised otherwise than by the Government of Canada," or " of any of the Allies of His Majesty."

Civil Servants.—No. 5 is an Act respecting members of the Civil Service who enlist in the active military, naval or air forces of Canada or Great Britain during the existing state of war in Canada, and makes provision for the payment of gratuities to civil servants upon their enlistment. It also covers the necessary protection in respect to their claims to superannuation.

Metis Population.—No. 6 of 1938 (see Rev. of Leg. 1939, p. 49) is repealed by No. 6. The Minister in charge of the Act is to promote associations composed of members of the metis population and make provision for their constitution and by-laws. Lands are assigned to them and regulations laid down for hunting on such lands. There may also be improvement districts which provide for the development of the self-government of the community. The Act endeavours to secure that the population make good use of their opportunities by authorizing the Minister to see that the land is in proper cultivation.

Cancer.—The Minister of Public Health is authorized by No. 10 to promote and encourage the formulation of schemes, plans and measures for the diagnosis, treatment and prevention of cancer. He may do so by entering into agreements with any body having the control of any hospital or institution providing X-ray treatment or with radiologists, physicians or surgeons for purposes of carrying out the schemes. He may have a staff to assist him in carrying out the Act and the Province will provide money to further the undertaking.

Education.—Among the Acts of a local and personal character may be mentioned c. 25 to incorporate a body to be known as The Canadian Junior

College " for the education of youth and promotion of knowledge where students may obtain a liberal education in the arts and sciences and to promote the study, practice and knowledge thereof, including vocational training, and in connection with such training to carry on any vocation and to provide for the delivery and holding of lectures, exhibitions, classes and conferences calculated directly or indirectly to advance the cause of education whether general, professional or technical, to award certificates and diplomas, for merit and proficiency and to appoint such professors, associate professors, lecturers, instructors or other officers and servants, and such other powers as may be necessary for carrying into effect the objects and purposes of the corporation."

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Legal Proceedings Suspension.—C. 3 stays certain legal proceedings. There was a considerable number of cases pending determination by the Courts in which the validity or applicability of the Debt Adjustment Act has been raised. It was impracticable for the Government to be represented at all of these actions. Much needless time and expense was saved by the temporary suspension of these actions while the entire question of validity was referred to the Supreme Court of Alberta under the provisions of The Constitutional Questions Act, and finally to the Privy Council. The question may be fully considered in this one reference, and the one decision will be binding upon all parties concerned. C. 4 makes it clear that the Debt Adjustment Act which is to be referred to the Supreme Court to have its validity determined is The Debt Adjustment Act as amended, including the 1941 amendments.

Motor Traffic.—C. 5 amends and consolidates the Vehicles and Highway Traffic Act. The majority of the amendments are of a minor nature for the purpose of clarifying the wording and intention of the Act. The material contained in it has been reorganized into several parts.

S. 23, which corresponds to s. 21 of the former Act is designed to get round the difficulty enforcement officers have experienced with evasion of the provisions of this section. Dealers in motor vehicles are frequently dealers in farm implements, fuel oil and other things of that nature, and use trucks equipped with dealers' plates for the delivery of such commodities rather than taking out a trucker's licence as they should do.

In s. 41 reference has been omitted to the words " recklessly or negligently," and the section is now confined to an unreasonable rate of speed. The Dominion has occupied the field of legislation with regard to reckless and negligent driving by amendments to the Code, so it was necessary that references be omitted to this both here and in s. 122.

S. 52 is designed to make it clear that vehicles on through or arterial streets have the right-of-way and that vehicles entering on such through streets or highways from private roads, lanes or stop streets must remain stopped until they can enter the main highway with safety.

Part V, dealing with pedestrians, sets out their rights and duties. They are required to walk on sidewalks where they are provided. When pedestrians are crossing at intersections in accordance with the direction of traffic control signals or traffic officers, vehicles turning on such intersections are required to yield the right-of-way to the pedestrians. Pedestrians walking or remaining on the travelled portion of any highway are required to keep to the left-hand edge of such highway.

S. 112 enables a court to order the impounding of a bicycle the second time its owner has been convicted of using the same without proper lights. This is a very prolific cause of accidents, and the fine of one dollar which is usually imposed for this offence in the juvenile courts is not a sufficient deterrent either to the boy or his parents.

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[1] This summary is based upon the synopsis prepared by W. S. Gray, Esq., K.C.

Amusements.—C. 6 repealing the Amusement Tax Act, the Travelling Shows Act, and The Theatres Act, is, in effect, an amended consolidation of these three Acts, and the majority of the provisions of this Act may be found in one or other of the Acts repealed.

Fuel Oil Tax.—C. 7 repeals The Fuel Oil Tax, 1936, and amendments thereto, substituting therefor this new Act. It was decided to discard the present coupon system in dealing with agricultural rebates pursuant to regulations under The Fuel Oil Tax Act, 1936. In its place it was proposed to adopt the use of a special dye in colouring fuel oil used on farms in farm machinery and engines. This Act accordingly contains most of the provisions of The Fuel Oil Tax Act, 1936, together with a number of new provisions as to the colouring.

Insurance.—C. 8 amends the Alberta Insurance Act. S. 8 removes any doubt as to the enforceability of a claim for life insurance money in the event of suicide of the assured. The new Part dealing with hail insurance introduced by s. 11 is the result of recommendations made by the conference in Regina in 1938. Hail insurance has hereby been extended to cover field, garden and horticultural garden crops. By special endorsement, coverage may also be extended to swathed crops, and to provide protection against loss from other causes. This legislation has been passed in Manitoba and Saskatchewan, where it has been in force for two seasons and has been working very satisfactorily.

Government of Alberta Insurance.—C. 9 amends the Government of Alberta Insurance Act. The amendments add to ss. 3, 9 and 14 provisions enabling the Government of Alberta to engage in the business of life insurance. The new subsection (2) of s. 7 gives to the insurance office the same powers as are customarily exercised by general insurance offices. Now, if an agent of the insurance office when soliciting the fire insurance on an institution is requested by the officers of the institution to look after their other insurance, such as burglary, public liability, etc., the insurance office may act as the agent of that institution for the placing of such insurance in other companies.

Cemeteries.—C. 17. Many cemetery companies find their finances in such a condition that they are unable to care properly for their cemeteries. In most cases, adjacent municipal authorities would be quite willing to take over the cemetery and maintain it in a proper state.

This Act amends The Cemetery Act by adding to it a new section which enables the directors of any cemetery company to convey or dispose of it to a city, town, village or municipal district.

Building Associations.—C. 19 amends The Building Associations Act, c. 8 of 1940, by adding a new Part providing for the organization of building associations. The object of this Act is to enable ten or more persons to join together in organizing a corporation for the purpose of accumulating savings of members and lending such accumulations to members and also by raising additional funds by borrowing and lending such accumulations and funds to members for the purpose of building houses.

Industrial Conciliation and Arbitration.—C. 20 makes several amendments to s. 2 of The Industrial Conciliation and Arbitration Act. The definition of " dispute " has been altered to conform with the wording in the Dominion Act and to cover the case of a dispute between an employer and any class or group of his employees. In many large industrial plants employees are not all within one category.

It is also desirable to bring the members of the teaching profession within the scope of the Act, and the definitions of " employer " and " employee " have been amended by inserting words which will accomplish this end.

Education.—C. 35 amends the School Act, 1931. A new section, 209*a*, makes a pupil guilty of an offence if he refuses to take part in a patriotic exercise.

C. 39 amends The Teaching Profession Act, 1935. The purpose of the amendment to s. 6 of the Act is to enable a Discipline Committee set up under the by-laws of the Alberta Teachers' Association effectively to conduct its investigations into charges of misconduct and unprofessional conduct made against members of the Association. Where a witness refuses to attend before the Committee, or refuses to answer proper questions, or to produce documents, an application may be made to a Judge of the Supreme Court for the attachment of such person as for contempt of court.

Mineral Taxation.—C. 50. This Act provides for the assessment or taxation of all minerals in the Province. Two methods of taxation are provided for; one applies in what are described as "producing areas" and the other is applied in the balance of the Province. "Producing area" is defined as an area in the Province within which any mineral is being produced, and includes all lands within the boundaries of such areas as specified by the Minister. Provision is made for the appointment of an assessor and the assessment of all minerals other than coal in producing areas at the fair actual value.

Forest and Prairie Fires Prevention.—C. 67 amends and consolidates The Prairie Fires Act. The new Act is divided into three parts, the first of which deals with administration, the second with prohibitions, and the third sets out the offences which constitute infractions of the Act and the penalties therefor.

Geophysical and Geological Exploration.—C. 70. This Act provides a method whereby the Minister of Lands and Mines can exercise some control over the Geophysical and Geological Explorations conducted by private enterprise throughout the Province. The Lieutenant-Governor in Council may make regulations forbidding a person from commencing or undertaking geological or geophysical operations unless properly licensed. The fees, the nature and extent of the licence and the terms upon which it shall be issued may also be prescribed. The information obtained through these operations should be available to the Minister and the officers of his Department in the interest of the development of the natural resources of the Provinces.

Agreements between the Government of the Dominion and the Government of Alberta.—C. 72 is to ratify two agreements concluded between the Province and the Dominion with respect to the amendment of The Natural Resources Transfer Agreement. The agreement in Schedule A is one which authorizes the construction of certain works in the Banff National Park, chiefly the raising of water level in Lake Minnewanka by the diversion of the waters of the Cascade River and the Ghost River. This project is for the purpose of enabling the Calgary Power Company to obtain extra power to supply war industries for the Calgary area. The agreement in Schedule B amends s. 2 of the Natural Resources Transfer Agreement and permits the Province to exercise a large measure of control over petroleum and natural gas leases in the interest of orderly development and conservation.

Factories.—C. 83 amends the Factories Act by adding a new section. As a result of a meeting of the Provincial health officers held in Ontario, it was decided that it was desirable to institute uniform legislation throughout the Dominion having to do with the use of benzol and other poisonous products in industry. This amendment is similar to the provisions now in effect in Ontario.

Game.—C. 89 amends and consolidates The Game Act and repeals The Game Act, 1932. The vast majority of changes made have merely been alterations in the wording to clarify the meaning of existing sections. The material in the Act has been entirely reorganized so far as the order and numbering of the sections is concerned. It is divided into four parts. The first Part deals with property in wild life, general prohibitions applying to all kinds of game, and dealing generally with licences and permits required. Part II is divided into two divisions, the first of which contains the provisions dealing exclusively with big game, and the second deals with game birds. Part III comes under the general heading of "Fur." Ss. 49 to 51 are general provisions dealing with fur-bearing animals, and ss. 52 to 59 are concerned with trappers, traders and dealers in fur. The last Part has to do with the administration of the Act. It governs the officials who are in charge of its operation, their appointment and powers. Ss. 79-86 in this Part contain some new and clarified provisions which will facilitate procedure in Court, as they establish certain burdens relating to evidence, onus of proof and presumption. The remaining sections deal with procedure to be followed, offences, and the penalties for those guilty of these offences.

Vegetables.—C. 90 introduces a new Act which is to be known as The Vegetable Sales (Alberta) Act. Its purpose is to enable the grading and inspection of potatoes grown in the Province of Alberta. The Lieutenant-Governor in Council has wide powers with regard to such grading and inspection, and can also make regulations regarding the transportation, advertising and sale of such potatoes.

The Dominion Government and many of the Provinces have a Vegetable Sales Act, to which this Act is somewhat analogous. It is worded generally so that its provisions may be extended from time to time to other vegetables as the need for such extension arises.

Hospital Lien.—The object of c. 102 is to give approved hospitals a lien on damages recovered by a patient in an action for personal injuries resulting in him getting hospital treatment. Usually the amount of the hospital account is recovered as part of the damages, but in many cases the hospitals are not paid. The Act also gives the hospital a lien on any other amounts accruing to the injured person from any other source as a result of the accident. To preserve the lien, the hospital must notify the proposed defendant in the action or other person interested within ten days of the discharge of the patient. If the lien is not satisfied the hospital may recover by action the amount of its claim from the persons responsible to the injured person.

Nurses.—C. 117 amends and consolidates The Registered Nurses Act. S. 5 gives the Association control of its constitution by authorizing the Association in general meeting to pass by-laws which, among other things, empower the Association to deal with the election of a Council which, by s. 6, is given the management and control of the business of the Association. S. 7 gives the Senate of the University of Alberta control over standards of training in hospitals approved by it and the appointing of a Board of Examiners from persons nominated by the Council. S. 8 makes it an offence for a person who is not a member of the Association to use the designation of "Registered Nurse" or the initials "R.N."

3. BRITISH COLUMBIA

Four Acts received the Royal Assent on May 10, 1940, in a short session of the Legislative Assembly.

Petroleum.—No. 3 was necessary to confer the necessary authority upon the Lieutenant-Governor to deal with the petroleum industry. The Coal and Petroleum Products Control Board had fixed prices under an Act of 1937 by a regulation which had been declared *ultra vires* by the Provincial Court of Appeal. A further regulation by the Board was equally ineffective, as an injunction was granted by the Chief Justice, and, on appeal to the Supreme Court of Canada, the Board's action was held to be *ultra vires*. Thereupon all the gasoline companies concerned suspended delivery and legislation became necessary to meet the *impasse*.

Second Session

AT the end of the year 52 Public and 2 Private Acts received the Royal Assent. A large proportion of the former only effected small amendments.

Change of Name.—No. 3 embodies the procedure to be followed to carry out a change of either " given name " or surname. The documents are to be filed with the Director of Vital Statistics.

Elections.—No. 9 amends the law relating to the requirements for members of the armed forces to participate in Provincial elections.

Hogs.—The grading of the carcasses of hogs is the subject of c. 19.

Legal Profession.—The conditions of call to the Bar are relaxed for men on active service by c. 22 allowing a discretion to the Benchers to call them after being " in actual attendance at the Chambers of a practising barrister of British Columbia for at least two years, though not for the required period."

Medical Men.—Amendments to c. 171 of the Revised Statutes by c. 26 include provisions relating to disciplinary measures. A committee of inquiry appointed by the College of Physicians and Surgeons may " associate with themselves as a member of the committee one of the Judges of the County Court, who shall be entitled to a fee of twenty-five dollars out of the funds of the College for each day he sits as a member of the committee of inquiry.

Mental Hospitals.—By c. 27 amending the Mental Hospitals Act (R.S. 1936, c. 172) the Medical Superintendent of a public mental hospital becomes a corporation *sole* with perpetual succession and authority to take or defend legal proceedings. It also effects modifications in the procedure to be followed for the admission and certifications of patients, their custody and discharge, such as s. 11, which precludes relatives of the patients from acting officially either as Judge, medical practitioner or custodian.

Municipal Employees.—The conditions relating to the superannuation of municipal employees are amended by c. 49, especially so as to provide for those on active service.

Teachers' Pensions.—Previous legislation contained in c. 283 of the Revised Statutes 1936 is repealed by c. 52, which now contains the whole law on the subject of pensions for teachers.

Wool.—C. 59 establishes grades for wool.

1941

THERE was a general election in 1941 ; and the next series of Acts did not receive assent until February 1942, so will come within the review of legislation of that year.

4. MANITOBA

[*Contributed by* WILSON E. McLEAN, ESQ., K.C.]

THE Revised Statutes of Manitoba, 1940, having been completed, c. 1 of the Statutes of Manitoba, 1940 (First Session) is entitled " An Act respecting the Revised Statutes of Manitoba, 1940." By this Act it is provided that the Revised Statutes are to come into force on proclamation, and the Revised Statutes were subsequently proclaimed and came into force on June 1, 1940.

Contracts and Debts of Members of His Majesty's Forces.—Amendments were made by cc. 11 and 12 to The Debt Adjustment Act to provide protection against legal proceedings to members of His Majesty's Forces. The legislation provides that unless and until a certificate is obtained from the Debt Adjustment Commissioner no action of the kinds mentioned in the section may be taken against a person engaged on war service, or certain dependent members of his family. The kinds of action in respect of which proceedings are forbidden without a certificate are, generally speaking: Suits for any debt or account, or money demand ; proceedings under mortgages and agreements for sale of land, for the sale of the land or for foreclosure or recovery of possession; applications for title pursuant to proceedings for sale of land for arrears of taxes ; proceedings by way of execution, attachment or garnishment ; proceedings to sell land under judgments or mechanics' liens ; seizures or distresses under leases, chattel mortgages, conditional sale agreements (lien notes), agreements for sale or mortgages of land.

Certain other amendments were made to The Debt Adjustment Act, giving additional protection to civilian debtors.

Property.—Amendments were made to three Acts respecting mortgages and agreements for sale.

The Law of Property Act was amended by ç. 28 by adding four new sections, the first of which provides that no chattel erected or placed on farm lands shall by reason only of a declaration, agreement or covenant in an agreement for sale or mortgage be deemed to be part of the realty. By a further section a purchaser or mortgagor may apply to the King's Bench for an order respecting the application of the proceeds payable under any fire insurance policy notwithstanding anything contained in any other Act or agreement for sale or mortgage. A time limit of sixty days is fixed within which the application must be made.

It is further provided that a lessor, vendor or mortgagee may not charge against the lessee, purchaser or mortgagor premiums for hail insurance unless he gives his written consent in the year in which the insurance is effective. In cases where a mortgage or chattel mortgage is held as security for more than one debt, the mortgagee must notify the mortgagor of the debt on which any payment made or moneys realized under the mortgage have been applied.

The Limitation of Actions Act was amended by c. 29 by providing that in cases where action was taken on the personal covenant contained in a mortgage or agreement for sale no payment or acknowledgment given shall extend the time except as against the person by whom the payment is made or the acknowledgment given. The section applies to mortgages and agreements for sale made before, as well as after, the coming into force of the section.

The Mortgage Act was amended by c. 34 by adding a new section providing that the inspection fees of the mortgagee shall be borne by the mortgagee and shall not be charged to the mortgagor except for the preliminary inspection.

A new section was also added restricting a mortgagee's right to charge collection costs against the mortgagor.

War Legislation.—In addition to the amendments made to The Debt Adjustment Act, other legislation resulting from the war is contained in The Civil Service and The Civil Service Superannuation Acts dealing with employees who enlist for active service.

Elections.—The Election Act was amended by c. 15 to enable soldiers, etc., quartered in Manitoba to vote in the electoral division in which they are so quartered and empowering the Lieutenant-Governor-in-Council to make any necessary regulations.

Companies.—The Companies Act was amended by c. 6 to enable the company to use lithographed or engraved signatures on bonds or debentures. It is also provided that a copy of the balance sheet, etc., must be mailed to shareholders fourteen days before the annual meeting. The section dealing with the election of directors and officers of Friendly Societies and other powers was revised, as was the section of the Act dealing with the dating and effecting of a prospectus or statement in lieu thereof. Investment powers of Trust Companies were also extended.

County Courts.—The County Courts Act was amended by c. 9 to provide that the third party procedure in the King's Bench should apply.

King's Bench.—The King's Bench Act was amended by c. 10 by adding the new subsection enabling the prothonotary, or deputy clerk of the Crown and pleas to issue a certificate for registration in the Land Titles Office, which shall discharge and remove a *lis pendens* where the action has been discontinued or otherwise finally disposed of.

Fair Wage.—The Fair Wage Act was amended by c. 17 for the purpose of preventing the use of fictitious partnerships to defeat the purposes of the Act and providing that the civil remedy of an employee is not impaired.

Fish.—The Fish Inspection Act (c. 18) brings into force in Manitoba the provisions of the Dominion Act dealing with that subject.

Forests.—An amendment (c. 19) was made to The Forest Act authorizing the regulating and licensing of persons dealing in forest products, including cordwood.

Game.—The Game and Fisheries Act was amended by c. 20 to regulate and license persons selling fish nets. This is designed to prevent the sale of illegal nets in areas where they are prohibited.

Highways.—The Highway Traffic Act was amended by c. 21 to provide that the five-sixths fee may be had on March 15 instead of April 1. The fee payable by a soldier, etc., bringing his car into Manitoba from another province shall be $2.00 only. The restrictions as to the candle power of headlights was repealed in view of the new sealed beam headlights now on the market, and it is made compulsory to dim the headlights when passing another car at night. The speed limit was fixed at fifteen miles per hour when passing institutions for the blind or similar institutions marked by road signs. The section relating to pedestrians walking on the highway was revised so as to require them to use a sidewalk if one is provided. A reduction from three to two years was made in the financial responsibility provision.

Cattle.—The Horned Cattle Purchases Act was amended slightly by c. 23 to provide for the appointment of inspectors.

Hospitals.—The Hospital Aid Act was amended by c. 25 to provide that in cases where a patient remains in hospital for three months or more the hospital need not wait until his discharge, but may send a bill at the expiration of the three months and monthly thereafter.

Insurance.—The Insurance Act was amended by c. 26 to enable an insurer licensed to transact fire insurance to insure the same risk against falling aircraft, earthquake, etc., and the statutory conditions apply to the supplemental coverage. Special stipulations limiting the insurer to a percentage of the loss are required to be set out in a written application signed by the applicant. A new section was added to provide that an agreement in a policy of life insurance for the payment of the insurance in the event of the insured's suicide shall be lawful.

Land.—The Land Rehabilitation Act was amended by c. 27 to protect communal pastures. It is made an offence to leave the gate open or to interfere with signs, and animals improperly placed in the pasture may be impounded.

Mental Diseases.—The Mental Diseases Act was amended by c. 32 to remove the requirement that a justice may not commit unless the person showed a propensity to be dangerous or committed an offence.

Public Health.—Amendments by c. 38 to The Public Health Act extended to aircraft the regulatory powers the Minister already has with respect to other types of transportation.

Public Schools.—The Public Schools Act was amended by c. 40 to permit the use of school buildings for youth training and to provide for the payment of living expenses of pupils who attend school in the district other than that in which they live. The provisions for the creation of a reserve fund for building were extended. In unorganized territory the demand for taxes is to be mailed before July 31 instead of October 1. Penalties on taxes have been reduced to bring them in line with the provisions of The Municipal Act. A new section was added to enable the Minister to approve a special levy for school accommodation in certain cases which the taxpayer may pay by performing work or furnishing material. The School District of Winnipeg was given power to lease its school buildings for war purposes and provide others in place thereof.

Real Property.—The Real Property Act was amended by c. 41 by striking out the word "encumbrance" wherever it occurred therein and substituting therefor the word "encumbrancer," the purpose being to restore to the word "encumbrancer" the meaning it has in other statutes and in other jurisdictions.

Education.—The School Attendance Act was amended by c. 43 to make it an offence for parents to permit their children to be habitually late.

Debts.—The Small Debts Recovery Act was amended by c. 44 to provide that the Limitation of Actions Act should apply. The purpose of this amendment was to resolve some doubt which had arisen as to whether or not the limitation period was six months.

Strikes.—The Strikes and Lockouts Prevention Act was amended by c. 46 to make it an offence, not only to intimidate an employee for joining a union, but also to intimidate him from continuing as a member of the union. It will be noted that the section implements section 502A of the Criminal Code.

Amusements Tax.—With respect to taxation The Amusements Act was amended by c. 3 to provide that ice carnivals are exempt only if the proceeds are for charity.

Income Tax.—The Income Taxation Act was amended by c. 51 in various respects to bring it in line with the Dominion Act. Patriotic donations not exceeding fifty per cent. of the taxpayer's income may be deducted and various transactions entered into with a view to affecting or reducing liability to payment of the tax are dealt with. Part II of the Act is extended to include grandchilden as well as children. A deduction is also allowed for children of any age dependent on the taxpayer by virtue of physical or mental infirmity.

Succession Duty.—The Succession Duty Act was amended by c. 47 to provide that gifts *inter vivos* made within ten years of death instead of five years are taxable.

Trade Schools.—The Trade Schools Regulation Act was amended by c. 54 to eliminate the necessity of agents being licensed, but to prohibit any court action in Manitoba on a contract basis unless the school is licensed.

Vacant Property.—The Vacant Property Act (c. 57) was enacted to provide that all personal property deposited with or held in trust by any person in Manitoba which remains unclaimed for twelve years from the time the property was first payable shall vest in and be payable to the Province of Manitoba.

Municipal Legislation.—The residence rules of The Municipal Act were amended by c. 60 to provide that a person living on an Indian reserve does not thereby acquire residence in the municipality in which the reservation is located. An assignment of moneys payable by a municipality is not valid unless the assignment is assented to by the municipality.

The municipality is given control over private crossings and roadways.

The statute labour levy will apply on all rateable property, not merely on land as at present.

A flat rate on each quarter section for medical care, apart from assessed value, is authorized by c. 61.

The municipality is given power to regulate and license moving picture theatres by c. 63.

Second Session

AT the 1940 Second Session of the Legislature 57 bills were passed, of which 46 were Public General Statutes, 7 General or Local Municipal Statutes and 4 Private Acts.

In the Public General division amendments were made to nineteen Acts to meet minor difficulties or to correct typographical and other errors which had occurred or had been overlooked in the revision of the statutes of 1940.

Child Welfare.—Amendments were made by c. 5 to The Child Welfare Act authorizing the Government to enter into an agreement with the Dominion Government in connection with Evacuee Children and generally providing for the administration and financing of the scheme.

Debt Adjustment.—There were two Acts amending The Debt Adjustment Act. The first of these, c. 10, contains a long preamble to an additional section empowering the courts in proper cases to make reduction in principal indebtedness in respect to mortgages and agreements for sale affecting farm lands. This is only to come into force on proclamation. The second Act, c. 11, amending The Debt Adjustment Act brought the Act up to May 1, 1940, in so far as farmers are concerned. There were certain minor amendments made to the sections enacted last year providing for protection of soldiers and their dependants.

Factories.—The Factories Act was amended by c. 15 by adding a provision authorizing the Lieutenant-Governor-in-Council to make regulations covering the use of benzol and other dangerous substances, for the protection of workmen and others.

Fair Wage.—The Fair Wage Act was amended by c. 16 by adding to Part II bakery workers and also providing wage protection to employees engaged by contractors on Dominion Government works.

Game.—The Game and Fisheries Act was amended by c. 17 in a number of minor details. The principal amendment was with respect to the administration of Crown lands in the Northern part of the Province for the benefit of trappers concerned.

Hairdressers.—An Act respecting hairdressers was enacted by c. 18 in which provision is made for a licensing and examining board, etc. This follows the lines of "The Barbers Act."

Highways.—The Highway Traffic Act by (Bill No. 2), c. 20, was amended in a number of particulars, the principal amendments being with respect to speed. The difference between the 25- and 30-mile limit in certain areas has been eliminated, though it has been retained in the City of Winnipeg. The speed limit for the Province has been fixed at 50 miles an hour for all times of the day and night.

Insurance.—There was one minor amendment (c. 21) to the Manitoba Insurance Act providing that Life Insurance agents need not necessarily be residents of the Province before being entitled to licence.

Volunteer Reserve.—An Act (c. 27) was passed confirming by statute the Manitoba Volunteer Reserve and validating the order-in-council establishing the force and generally providing for the administration of that force during the war period.

Public Office.—The Public Office Disqualification Act (c. 32) provides that any person who is convicted of an offence under the Defence of Canada Regulations is disqualified from sitting as a member of the Legislature, a municipal council or school board. It also provides that a person interned automatically loses his seat. A period of delay is provided for any appeal, and the office cannot be filled for the period specified in the Act.

Public Schools.—There were a number of amendments by c. 33 to The Public School Act, the chief of these being the re-establishment of the requirement of an oath of allegiance and an affidavit of qualification by school trustees.

Sale of Goods.—One amendment by c. 35 was made to the Sale of Goods Act providing that where a sugar beet factory purchases sugar beets without knowledge of any defect in the seller's title it obtains good title. This is similar to the provisions of s. 25 protecting grain dealers purchasing grain.

Strikes.—Amendments were made by c. 38 to The Strikes and Lockouts Prevention Act to make it quite clear that employees have a right to bargain collectively with their employer. If an employer fails to do this the Act now specifically states that such refusal will constitute a labour dispute and the provisions for conciliation may be invoked.

Income Tax.—A number of amendments were made by c. 41 to The Income Taxation Act to get over certain administrative difficulties which had arisen, and also to bring the Act into uniformity in so far as possible with the Dominion legislation in view of the fact that the Dominion tax gathering officials also collect the tax under the provincial legislation. Relief was provided with respect to evacuee children maintained by a taxpayer.

Trustees.—The Trustee Act was amended by c. 44 to authorize the court to permit an advance out of capital money in the case of a trust created by deed as well as under a will. Up to the present the power only existed in the case of a trust under a will. The section now corresponds to the English provision except that authority of the court is required.

Municipal Legislation.—In the Public Municipal division The Municipal Act was amended by c. 47 in two particulars only. In the first place s. 116 dealing with the material on nomination was slightly extended, and in the second place the section dealing with municipal physicians was amended to deal with minor taxation problems.

1941

[*Contributed by* G. S. RUTHERFORD, ESQ., *Legislative Counsel.*]

AT the session of 1941-42 one hundred and one bills were passed. Of these 68 come under the heading of Public Acts (General Division), 26 under the heading of Public Acts (Municipal Division) and 7 were Private Acts.

Of the statutes found under the heading of Public Acts (General Division) there were twenty which were enacted to meet minor difficulties or to correct typographical errors or to make some improvement in the wording without altering the sense or the substance of the legislation.

Taxation.—C. 1 is The Taxation Suspension Act which implements the agreement made between the Dominion Government and the Provincial Government whereby the Province for the time being yields up to the Dominion the sole right to impose taxation in certain fields, notably the income tax field. Besides authorizing the execution of the agreement, the Act provides for the suspension of "The Income Taxation Act," "The Corporations Taxation Act," "The Railway Taxation Act" and "The Grain Dealers' License Act." These Acts are not repealed, but merely suspended. Provision is also made for the final collection of the taxes imposed by these Acts for the period prior to the date when the suspension goes into effect.

Labour.—Certain amendments to "The Amusements Act" (c. 2), "The Barbers Act" (c. 4), "The Elevator and Hoist Act" (c. 15) and "The Hairdressers Act" (c. 24). All provide for changes in the composition of the examining board and also that the chairman of the board may be, or in some cases shall be, an officer of the Department of Labour.

In "The Electricians' License Act" (c. 14) a similar change to those in the above mentioned Acts was made with respect to the examining board. The amendment also provided for regulations as to standards of equipment and for the prohibition of the use of equipment not up to the standard of the Canadian Engineering Association, or in the alternative, up to standards prescribed by the Minister.

In an amendment (c. 20) of "The Fair Wage Act, 1916," the phrase "private work" was redefined. In the Greater Winnipeg area "private work" is to include all construction or repairs. The provision formerly in the Act that it did not affect construction work to a value of less than $100.0 is now omitted. Certain changes were made as to what could be regarded as a maintenance staff. Truck drivers were also brought within the ambit of the Act.

Previously the Minimum Wage Board could make regulations which had the force of law and were binding on all concerned. This was changed, and now by c. 35 the regulations of the board do not become binding until approved by the Lieutenant-Governor-in-Council. The power to issue special permits was transferred from the Minimum Wage Board to the Minister.

Changes were made in the method of taking a vote in labour unions when a conciliation board is requested. The vote may now by c. 51 be taken at a regularly called meeting provided that, to be effective, a majority, not of the members present, but a majority of all the members of the union is required to vote in favour of the application for a conciliation board before such a board may be granted.

Certificates of judgments for the recovery of wages may now by c. 66 be issued for filing in the County Court without a warrant of distress having first been issued. But if a certificate of judgment is once issued, a distress warrant may not thereafter be issued.

The amendment by c. 68 was of a somewhat unique character. It provides that The Workmen's Compensation Board may make and carry out arrangements with the Workmen's Compensation Board of either of the adjoining provinces, namely, Saskatchewan or Ontario, or both of them, with respect to compensation for industrial diseases of workmen employed in any industry whose operations extend across and are intersected by an inter-provincial boundary line. There is at least one large mining company whose operations are actually situated right on the boundary line between Manitoba and Saskatchewan.

Agriculture.—An alternative and stricter definition of the phrase "run at large" with respect to animals is provided by c. 3, and it is enacted that this alternative definition may be adopted by a municipality and also that municipalities may pass bye-laws concerning the running at large of animals without first receiving a petition. The Lieutenant-Governor-in-Council is given authority to make orders respecting the running at large of animals in unorganized territory.

The classification of noxious weeds was extended by c. 37. Provision was made that where noxious weeds are cut down on road allowances the costs of cutting and destroying the same may be charged against the adjoining land and collected in the same way as taxes against that land. Provision was also made for declaring certain badly infested areas to be "weed infested areas." When this is done the municipality concerned may then take steps to eradicate the weeds by treatment over a long period, by cultivation or other methods; and this may be done either by an agreement with the owner of the land or, in cases where an agreement cannot be reached, the municipality may forcibly enter on the land and control it for a period not exceeding five years with a view to eradicating weeds.

The Manitoba Vegetable Sales Act (c. 64) is new legislation in Manitoba. It follows very closely the Alberta Act and provides machinery for classifying and establishing grades for vegetables and also provides for the machinery for the inspection, grading, packaging, packing, marking, shipping, advertising and selling of vegetables; and also for requiring the registration and licensing of brokers, commission agents, dealers and packers of vegetables. Power is given to the Lieutenant-Governor-in-Council to make regulations for these objects. At the present time the Act applies only to potatoes. It might be applied in future to other vegetables by an amendment to the schedule to the Act adding the names of such other vegetables.

Health.—By an amendment (c. 28) of the Hospital Aid Act a change was made with regard to the certificate which must be given by a physician before a person can be admitted as an emergency case, that is, where the costs of hospitalization are to be charged to the municipality in which the patient resides. The charges which the hospital may make against a municipality are slightly increased and the Act is not to be applicable where the patient has a contract for health insurance or medical care. In the case of ordinary admissions which are not emergency admissions, if the cost is to be charged to the municipality, the certificate must contain a statement that the patient is unable to pay the cost of hospitalization himself.

The preliminary examination by a Justice of a mentally diseased person suspected when first apprehended is not to be compulsory by c. 34 in every case, but only if demanded by the person apprehended or someone on his behalf.

Provision was made by The Tuberculosis Control Act, c. 62, for an increase of $30,000.00 in the Municipal Commissioner's levy for this purpose.

In cases where all the usual particulars required on registration of a birth cannot be given because they cannot be obtained, application may be made under c. 65 to a Judge of the Court of King's Bench, who may hold an inquiry and, after obtaining all the evidence that can be obtained, may make an order directing the registration of the birth.

Education.—Power was given to the Minister by the Education Department Act (c. 13) to make regulations respecting the physical qualifications of teachers. Changes were made in the composition of the discipline committee and its powers.

There were a large number of administrative provisions, in particular one requiring that school trustees call for tenders for fuel and for the construction and repair of buildings where over $100.00 is expended. This amendment (c. 42) does not apply to cities. The minimum salary of teachers was raised to seventy dollars per month. The provision for special grants to certain school districts was amended (c. 44) and a new basis for the grant established.

The association of teachers formerly incorporated and known as The Manitoba Teachers' Federation is merged into a new body by c. 60 to be known as The Manitoba Teachers' Society. An entirely new constitution is provided and the old Act is repealed. One of the features of the new Act is that every person who is employed as a teacher in a public school and is duly qualified *shall* be an active member of the new society unless by registered letter sent to the general secretary before the first of July in any year such teacher elects to be excluded from membership in the society for the next ensuing school year.

Commorientes.—The long title of c. 8 is an act respecting Survivorship in Common Disasters. Subject to certain exceptions, it provides that where two or more persons die in circumstances rendering it uncertain which of them survived the other or others, such deaths shall for all purposes affecting title to property be presumed to have occurred in the order of seniority, and accordingly the younger shall be deemed to have survived the older. These provisions, however, are made subject to certain provisions of " The Manitoba Insurance Act " and to certain provisions that may be found in wills where the testator has actually anticipated this situation.

King's Bench.—The fee entitling the parties to a trial by a civil jury is reduced to fifty dollars in every judicial district.

Dower.—The former provision that if a widow failed to make an election within two years as to whether she would take under the will or under " The Dower Act " her right to elect was gone, is now abolished by c. 12. Any interested person may obtain an order requiring the widow to elect and serve it on her. If the widow fails to elect within the time fixed in the order she shall be deemed to have elected to take under the will.

Evidence.—Provision is made by c. 17 for the proof of death of members of His Majesty's forces by the production of a certificate signed by certain officers of one of the departments of National Defence. Provision is also made as to certain conditions under which photographic copies of certain documents or records kept by banks may be received in evidence.

Real Property.—Provision is made by c. 46 for the issue of title to the Custodian of Enemy Property in respect of certain property of alien enemies where the Custodian has filed a vesting certificate with the District Registrar. Statutory provision is also made for the issue of certificates of title to the survivors of any joint tenancy where one or more of the joint tenants have died.

Summary Convictions.—Provision is made by c. 53 for penalties for the violation or contravention of any regulation, order or rule made by the Lieutenant-Governor-in-Council pursuant to an Act of the Legislature in cases where no penalty is already provided.

Fish Dealers.—C. 22 is entirely new legislation consequent upon certain provisions of "The Game and Fisheries Act" having been declared *ultra vires* of the Legislature. The intention of the Act is to deal with fish as an article of commerce. It provides for the licensing of persons dealing in fish and its object is stated to be to protect the fishing resources of the Province from wastage and destruction through the use of improper practices.

Highway Traffic.—A number of amendments were made by cc. 25, 26, and 27. The most important of these are the following:—

The establishment of a certain class of tractor to be known as a high speed tractor. This means any traction engine travelling on a highway at a speed exceeding ten miles per hour. Such a high speed tractor is now required to be licensed but is not subject to all the provisions with regard to lights and brakes that apply to other motor vehicles. Trailers drawn by high speed tractors do not require to be licensed. It is now provided that unless a special permit is obtained no person shall for gain or compensation drive upon the highway a traction engine drawing or towing any vehicle or other object or thing.

When livestock are transported by truck, the truck must be equipped with adequate partitions to separate different kinds or classes of livestock.

An important amendment was that to s. 53, whereby it is now provided that if it is impracticable for drivers of vehicles proceeding in opposite directions (*a*) each to give the other at least one-half of the main travelled portion of the roadway; or (*b*) to pass each other on the right, each of the drivers shall immediately stop his vehicle.

The minimum penalty for driving a motor vehicle on a highway in other than a careful and prudent manner is reduced to $25.00 for any offence subsequent to the first offence, and suspension of the licence is made optional in the discretion of the magistrate instead of mandatory as previously.

A provision was made, to come into force on proclamation, that any person driving a motor vehicle on a highway at a greater speed than forty miles per hour should be deemed to be driving in other than a careful and prudent manner. This is a reduction from fifty miles per hour which is now the case. In view of an order-in-council passed by the Dominion Government under The War Measures Act and dealing with the same matter, this particular provision has not yet been proclaimed.

It is now provided that drivers of public service vehicles and commercial trucks shall not be on duty with the truck in any capacity more than ten hours, with the one exception that in the case of a breakdown they may be on duty a maximum of two hours additional.

Insurance.—Provisions of the Act requiring the deposit are no longer by c. 29 to apply to insurers undertaking marine insurance only or insurers undertaking marine insurance and other classes with respect to marine insurance only. With regard to accident and sickness insurance it is now provided that if a policy has been delivered the contract shall be binding on the insurer as if the premium had been paid, although it had not in fact been paid. An amendment was made to the statutory conditions in respect of automobile insurance providing that in cases other than motor vehicle liability policies the insurer is not to be liable for loss or damage caused directly or indirectly by bombardment, invasion or similar warlike acts.

Gasoline.—C. 57 is to come into force on proclamation and has not yet been proclaimed. It is to supersede the present Gasoline Tax Act. The main difference is that instead of certain persons, such as farmers, being entitled to receive a refund of taxes paid by them on gasoline, provision will be made for the colouring or marking of tax exempt gasoline, and this gasoline would then be sold to the persons entitled to receive the same and no tax would be collected on such sales.

Succession Duty.—Under s. 163 of the Manitoba Insurance Act, if an insured is not domiciled in Canada at the date of his death and the contract does not otherwise provide, insurance moneys are made payable at the head office of the insurer in Canada. As " The Succession Duty Act " previously stood, such moneys would be subject to the payment of succession duty in Manitoba in any case where the head office of such a company was in Manitoba. The Act has now been amended by c. 52 to provide that in such a case where the deceased was not at the time of his death domiciled in Canada insurance moneys so received shall not be subject to succession duty. The Act was also amended to provide that where securities are deposited in Manitoba with a bank or trust company solely for the purpose of safe keeping and security from destruction by acts of the King's enemies, such securities shall not by reason only of their removal from where they were and their presence in Manitoba for such purpose, be deemed to be property situated within Manitoba or subject to duty in Manitoba, provided that in order to secure this privilege the owner of the securities must make a written request asking the bank or trust company with whom the securities are deposited to remove them to Manitoba and the bank or trust company must file with the Minister such written request, a list of the securities and a certificate that the securities were brought into Manitoba solely for the purpose aforesaid. Thereafter the securities are not to be removed from Manitoba after the death of the owner without the written consent of the Minister.

Bee-keepers.—Nearly all the provisions of the present Act were repealed and new provisions enacted by c. 5 in place thereof.

Civil Service.—The Civil Service Act and the Manitoba Civil Service Superannuation Act were amended by c. 6 and c. 7 respectively in several particulars. Many of these amendments related to Ministers' secretaries who may now become members of the superannuation fund. Provision was also made as to the exact date upon which members of the civil service who are not employees within the meaning of " The Manitoba Civil Service Superannuation Act " shall retire. Provision was made for an increase in the accrued liability of the Government to the fund and also for preserving the rights of student attendants or pupil nurses in mental institutions who enlist in His Majesty's forces.

Equine Encephalomyelitis.—C. 16 provides for the administration of vaccine to horses in certain areas by persons who obtain a special permit for the purpose. The Act expires on September 30, 1942. C. 63 is similar to statutes passed in other years and provides for moneys to be made available for the purchase of vaccine to be administered to horses for the prevention of encephalomyelitis. No advances are to be made after September 1, 1942.

Rural Rehabilitation Holding Corporation.—C. 49 simply sets up, as its title indicates, a Holding Corporation for the Rural Rehabilitation Commission. The Commission, being an unincorporated body, cannot take title to land, and certain administrative difficulties have resulted. Title to all lands and interest in lands belonging to the Commission will now be held by the Holding Corporation.

5. NEW BRUNSWICK

FORTY-FOUR public and forty-three local and private Acts were passed in the session.

Succession Duty.—C. 8 amends the Succession Duty Act, 1934, mainly by increasing the rates.

Corporation Tax.—Various amendments are made by c. 9, including one permitting interest to be charged on overdue taxes.

Schools.—C. 13 enacts a minimum salary for school teachers and allows payment to be made during illness up to five days.

Coroners.—When a death has occurred in a municipality as the result of an accident in another the inquest may be held by c. 21 in the latter by the consent of the Attorney-General, and in any case the place where the accident occurred has to meet the cost of the inquest.

Commorientes.—C. 43 is a measure relating to survivorship in common disasters passed in a form similar to the Manitoba Act (*supra* p. 68).

Tobacco Tax.—C. 44 imposes a tobacco tax, apparently for the first time.

1941

[It is hoped to publish the 1941 summary in the next issue.]

6. NOVA SCOTIA

[*Contributed by* D. R. C. HARVEY, ESQ., *Departmental Solicitor.*]

OF eighty-five Acts passed in the year 1940, fifty-five are Public, twenty are Local and ten are Private.

Fire Prevention.—C. 2 amends and consolidates existing legislation relating to fires and fire-escapes.

Summary Convictions.—C. 3 amends and consolidates the Summary Convictions Act and amendments thereto. The Act now provides that every person who aids, abets, counsels or procures the commission of any offence punishable on summary conviction shall be guilty of the offence of aiding, abetting, counselling or procuring as aforesaid and shall be liable to the same forfeiture and punishment as the principal offender is liable. Previously, every person who had aided, abetted, counselled or procured the commission of any offence punishable on summary conviction was liable to be proceeded against and convicted for the principal offence.

Municipal Corporations.—C. 4 amends and consolidates the existing Municipal Act and amendments thereto.

Court Houses, Jails and Lockup Houses.—C. 5 amends and consolidates the legislation relating to the establishment and maintenance of court houses, jails and lockup houses. It is now provided that any imprisonment to which a person is liable under any Statute of the Province may, in the discretion of the Court, magistrate or justice of the peace, be adjudged or ordered to be with hard labour, and that the council of any municipality may make by-laws for the proper carrying out of commitments requiring hard labour and may by such by-laws determine what shall constitute hard labour. Any such by-laws are subject to the approval of the Governor-in-Council.

Instalment Payment Contracts.—C. 7 provides among other things that any provision in any conditional sale made within the Province whereby the property in the goods remains in the seller shall be void and the buyer shall be deemed the owner of the goods unless the seller at the time of the making of such sale holds a licence which is in force. The Act reserves to the seller any right of action for the recovery of the purchase price of the goods which he may have under the conditional sale or any contract incidental thereto. A seller is defined as " a person who in the ordinary course of his business sells or lets to hire goods by a conditional sale or any successor in interest of such person." The Act also provides that certain other provisions commonly found in conditional sale agreements are void ; for example, the provision that a seller is relieved from liability for the acts or defaults of any person acting on his behalf.

Courts of Probate.—C. 29 amends The Probate Act to provide for a trial *de novo* on appeal from a decision of the Registrar.

Life Insurance.—C. 34 amends The Life Insurance Act to provide among other things that an agreement in a contract of life insurance for the payment of insurance money in the event that the insured commits suicide is lawful and enforceable. This amendment was made to remove any doubt that might exist as to the enforceability of such a claim in view of the decision in *Beresford* vs. *Royal Insurance Company* [1938], 586.

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[*Contributed by* C. L. Beazley, Esq., *Legislative Counsel.*]

Of eighty-four Acts passed in the year 1941, fifty-five were Public, twelve were Local and seventeen were Private.

Electoral Franchise.—C. 2 amends and consolidates The Provincial Electoral Franchise Act, the Statute under which members are elected to the House of Assembly of the Province. This Act should not be confused with the Electoral Franchise Act which deals with the election of municipal and town councillors in the seventy-five municipal units in the Province.

The earlier Provincial Electoral Franchise Act, which was passed in 1935, had been considerably amended, and the present Act does little more than consolidate the original Statute and its amendments.

Local Government.—C. 3 amends and consolidates the existing Towns' Incorporation Act which is the Statute from which the incorporated towns in the Province derive their power and authority. While the Statute has been considerably rewritten, there is no important change therein from the point of view of the public, although many changes were made in the internal management and operation of the towns.

Mines.—C. 4 amends and consolidates the provisions of The Mines Act.

Land Tax.—In pursuance of the Provincial policy of amending and consolidating a number of Acts each year, c. 5 amends and consolidates The Land Tax Act. This Act has been considerably rewritten, but there is no material change in the provisions of the Statute in so far as the public are concerned.

Steam Boiler Inspection.—C. 6 amends and consolidates The Steam Boiler Inspection Act, but makes no material change in the provisions of the Act as it was enacted by The Revised Statutes, 1923.

Marine Insurance.—C. 7 was a new enactment, and deals with contracts of marine insurance. With the necessary changes to make the enactment applicable to Nova Scotia only, this chapter closely follows the provisions of the English Marine Insurance Act of 1906. " Policy of insurance " is defined in c. 7 and these words had no definition in the English Act. The purpose of the definition is to provide for cover notes, since in practice it is seldom the practice to deliver the policy immediately, and in such cases the insurance is effected through a cover note issued by the broker. The definition of policy of insurance is considered broad enough to include such cover note.

S. 3 of c. 7 defines a contract of marine insurance, and this section differs from the English enactment. The section is a combination of the English section and s. 92 (1) of The Imperial Stamp Act, 1891. The Imperial Stamp Act was enacted in 1891 and contains the enlarged definition. The Imperial Marine Insurance Act was enacted in 1907 and does not contain this enlarged definition apparently because the Marine Insurance Act, 1906, and The Stamp Act would be read together. Inasmuch as this was not the situation in Nova Scotia, it was thought desirable to have the broader definition.

Wives' and Children's Maintenance Act.—C. 8 is a new enactment and provides simple machinery to compel a husband to contribute to the support of a deserted wife and children. Any person may make a complaint before a magistrate that such person is a deserted wife, or such complaint may be made by or on behalf of such person with the consent of the Attorney-General. The magistrate thereupon issues a summons to the person against whom the complaint is made and on the hearing the magistrate has wide powers to require the husband or father to make payments either to the wife or to a person having the care and custody of any children or to any person designated by the magistrate. No order shall be made against any one person in amounts in excess of twenty dollars per week. The magistrate may on application by the person against whom the order has been made or by the wife or child or, with the consent of the Attorney-General, of any other person from time to time vary the order upon proof that the means of the husband, father or mother or the needs of the deserted wife or child have changed since the order was last made or varied. The Act further provides for the issuance of a summons where an order has not been complied with and for the issuance of a warrant where the summons is disobeyed.

The Act contains a multiplicity of forms so that the Act may be simply construed and enforced by local magistrates.

Legislative Procedure.—C. 9 is a new enactment and is original in so far as the Dominion of Canada is concerned. The Act provides in effect that a copy of all rules and regulations made by the Governer-in-Council or by any Minister, or by any Board or Commission, or other body mentioned in the Schedules to the Act shall be laid before the House of Assembly within twenty days after the same are made or if the House is not then sitting, within twenty days after the meeting of the House next after the same are made. If such rules and regulations are not tabled in accordance with the provisions of the Act, such rules and regulations are *ipso facto* repealed. This Act applies to rules and regulations heretofore and hereafter made, and every Statute authorizing the making of any rules and regulations is to be read and construed subject to the provisions of c. 9, and in case of any conflict the provisions of c. 9 shall prevail unless the contrary intention is expressly stated.

Active Service Voters.—C. 10 provides machinery for taking a vote at Provincial elections of persons in the Armed Forces who are resident in a district in the Province other than the district in which they are entitled to vote.

Commorientes.—C. 11 provides in effect that where two or more persons die in circumstances rendering it uncertain which of them survived the other or others, such death shall be presumed to have occurred in the order of seniority, and accordingly the younger shall be presumed to have survived the older. The provisions of the Act are to be construed subject to the provisions of The Life Insurance Act and of The Wills Act.

Labour Disputes.—C. 13 authorizes the Minister of Labour to act as a mediator and to appoint a commissioner or commissioners of conciliation in labour disputes whenever in his opinion the interests of industrial peace may require it to be done.

Corporations.—C. 14 provides in effect that where a corporation is dissolved, the lands, tenements and hereditaments of which the corporation was seized, or to which it was entitled at the time of its dissolution, shall for all purposes escheat to His Majesty in right of the Province of Nova Scotia and all personal property and rights vested in or held in trust for the corporation at the time of its dissolution, shall be deemed to be *bona vacantia,* and shall accordingly belong to and vest in His Majesty.

Whenever it is made to appear to the satisfaction of the Governor in Council that any such real or personal property should be conveyed to any other person or corporation, the Governor-in-Council is authorized to make such conveyance.

Under the Common Law the property of a dissolved corporation reverts to the grantor of the property. The Act is of application particularly to mining companies, and it not infrequently happens that the grantor to the dissolved corporation has been dissolved or has ceased to carry on business and the shareholders cannot be located.

Vital Statistics.—C. 21 amends The Vital Statistics Act and provides for the issuance by the Registrar of Vital Statistics of a certificate showing merely the date and place of birth of any person of which there is a record in his office, such certificate to be *prima facie* evidence of the fact certified to be reported. The object of this amendment is to provide for a certificate which will not show illegitimacy on its face.

Probate.—C. 35 makes a number of amendments to The Probate Act which are generally not of major importance. S. 21 of the previous Probate Act was incapable of the interpretation that an executor of an executor did not succeed to the trust, but on the death of such an executor that administration should be granted to the person entitled under the Act. The Act provided for administration c.t.a. only where the executor refused the trust or where there was no executor named in the will. An amendment to the Act provides that administration c.t.a. can be granted where the executor has died.

Motor Vehicles.—C. 42 amends The Motor Vehicle Act, but most of the amendments are of an administrative nature. The most important amendment of general application is a rewording of s. 54 to make it clear that where a person has been convicted of drunken driving that the licence of such person shall be revoked and shall not be restored until after two years in the case of the first conviction or for a period of five years in the case of a subsequent conviction, and that the application for such restoration must be accompanied by the recommendation in writing of a judge of the County Court and that application for such recommendation shall be made at a regular sitting of the County Court.

Public Highways.—C. 51 amends the Highways Act and provides, among other things, that the highway authorities may enter upon the land of any person which adjoins the highway and erect and maintain snow fences upon such land or take down or remove any fence or other obstruction which causes accumulation of snow so as to impede or obstruct traffic.

Another amendment to the Highways Act provides that without the consent in writing of the Minister of Highways no person shall erect or construct any building or other structure within one hundred and thirty-three feet from the centre line of the travelled portion of any highway.

Nova Scotia highways are sixty-six feet wide, and the amendment in effect provides that no building shall be erected within one hundred feet of a highway unless consent is given. If any person erects or constructs any such building, the Minister of Highways or any person acting on his authority is empowered to remove or demolish any such structure, and the expenses of any such removal shall be borne by the persons so erecting or constructing.

Summary Convictions.—For the past few years attempts have been made to achieve some measure of uniformity in the imposition of penalties for the violation of various Provincial Statutes and also in the rate between the amount of the pecuniary penalty and the term of imprisonment in lieu thereof. As an extension of this principle, c. 54 amends The Summary Convictions Act to provide punishment as set out therein in any case where it is provided in any other Statute of the Province that the section shall apply.

7. ONTARIO

[*Contributed by* K. G. MORDEN, ESQ.]

FIFTY-TWO Acts were passed in the session, of which seventeen were private.

Survivorship in Common Disasters.—The Commorientes Act (c. 4) is similar to the Manitoba Act (*supra* p. 68). Provision is made subject to (*a*) s. 175 of the Ontario Insurance Act, which provides that where an insured and a beneficiary die in the same disaster it shall be *prima facie* presumed that the beneficiary died first and (*b*) s. 36 of the Ontario Wills Act, which prevents lapse of gifts to issue and certain other relatives who predecease the testator.

Suicide by Insured Persons.—The Insurance Act is amended (c. 11, s. 5) by adding a section in the same terms and for the same reason as the Nova Scotia Act (*supra* p. 72).

Barristers and Solicitors.—By the Law Society Amendment Act (c. 13) the Benchers of the Society are empowered to suspend from practice a barrister or solicitor who has been declared, certified or found to be mentally incompetent or mentally ill, pursuant to the relevant statutes in that behalf, or has failed to pay any fee payable by him to the Society within one year of the date prescribed for such payment. Prior to this amendment, the only grounds upon which a barrister or solicitor could be disbarred or suspended from practice was " professional misconduct " or " conduct unbecoming a barrister or solicitor."

The Solicitors Act is amended (c. 26) by providing penalties for the breach of the section of that Act prohibiting a person, not enrolled and qualified as a solicitor, acting or representing himself to be a solicitor. The penalties may be recovered either in the manner provided by the Summary Convictions Act or upon application to a judge of the Supreme Court of Ontario by originating notice. The Supreme Court Judge, in addition to ordering the payment of the penalties, may make an order enjoining the guilty person from practising as a solicitor.

Local Government Extension Act.—As a war-time measure, this Act (c. 14) extends the terms of office of members of municipal councils in office on February 1, 1941, and of members of local boards of municipalities in office on February 15, 1941, for one year and until their successors are elected or appointed unless a majority of the municipal electors in any municipality voting on the polling day for the election of the members of the Council for 1941 vote against such extension, and in such case the Act shall not apply to that municipality.

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OF the eighty-six Acts passed twenty-three were private.

Intestate Succession.—The Devolution of Estates Act (R.S.O. 1937, c. 163) is amended (c. 19) by providing that a widow of an intestate dying with or without issue shall take the first $5,000 as her preferential share (instead of $1,000 where the intestate died with issue), and where an intestate dies without issue, two-thirds of the estate (instead of one-half).

Rules of Court.—In place of the judges of the Supreme Court of Ontario, a new Rules Committee is constituted by the Judicature Amendment Act (c. 24). This Committee consists of seven Supreme Court Judges appointed by the Chief Justice of Ontario, two County or District Court Judges appointed by the Attorney-General, the Attorney-General or such other law officer of the Crown appointed by him, the Master of the Supreme Court and three barristers or solicitors appointed by the Benchers of the Law Society. The exercise of the rule-making powers of the Committee is subject to the approval of the Lieutenant-Governor in Council. The Committee is empowered to make rules governing the practice and procedure in the Supreme Court, the County and District Courts, the Surrogate Court, the Court of General Sessions and with reference to estreating recognizances and *habeas corpus*, and also rules under the following Acts: Land Titles Act, Quieting Titles Act, Matrimonial Causes Act, Mental Incompetency Act, Municipal Arbitration Act, Municipal Drainage Act, Reciprocal Enforcement of Judgments Act and the Solicitors Act.

Jury Service.—By the Jurors Amendment Act (c. 25) the age of exemption from jury service is raised from sixty-five to seventy years and exemption is denied to the following classes of persons formerly exempt: officers, officials and servants of the Dominion and Provincial Governments with a few exceptions, officers and men of the non-permanent militia, officials and servants of municipalities, teachers and employees of educational institutions and millers.

Legislative Assembly.—The Legislative Assembly Act (R.S.O. 1937, c. 12) is amended (c. 26) by providing that where a member of the Assembly is appointed a member of the Executive Council, or being a member of the Executive Council resigns his particular office and accepts another, he shall not by reason of the acceptance of such appointment, vacate his seat or be disqualified from sitting or voting in the Assembly.

Magistrates.—The appointment, tenure of office and retirement of magistrates which formerly was at the pleasure of the Lieutenant-General-in-Council, is now regulated by an amendment (c. 28) to the Magistrates Act. No person who has reached the age of fifty-five years shall be appointed a magistrate ; every magistrate shall retire on attaining the age of seventy years, except those now holding office, who shall retire upon attaining the age of seventy-five years : every magistrate shall hold office for two years after his appointment during pleasure and thenceforth may be removed, after due inquiry, from office by the Lieutenant-Governor-in-Council for misbehaviour, incapacity or inability to perform his duties properly.

Securities Act.—By amendment (c. 53) to the Securities Act, the directions, decisions, orders and rulings of the Securities Commission granting or refusing to grant, suspending or cancelling the registration of any broker or salesman or regarding the trading or right to trade in securities or the escrow or release from escrow of any securities are subject to appeal to a Board of Review composed of the Master of the Supreme Court, the Judge of the Mining Court and the Deputy Minister of Mines. An appeal lies from the Board of Review to the Court of Appeal for Ontario.

8. PRINCE EDWARD ISLAND

[*Contributed by* W. E. BENTLEY, ESQ., K.C.]

OF the sixty-seven Public Acts passed by the Legislature in 1940 fifty-three were consolidations and revisions of previous legislation ; eleven were amendments to existing Acts. Three only were legislation on new subject matters. Eight were Private Acts.

Bacterial Ring Rot.—C. 9 requires that every grower, whose crop of potatoes is infested with Bacterial Ring Rot, and every potato dealer in whose warehouse or place of business the disease is discovered shall comply promptly with all directions and instructions furnished him by the Dominion District Inspector of Production Service and the Dominion Supervisor of Fruit and Vegetable Inspection Service, or either of them, as to the disposal of such crop or the cleaning and disinfecting of such warehouse or place of business. It is forbidden to bag potatoes in sacks previously used for the same purpose without permission first obtained from such Dominion Inspector or Supervisor. A potato grower on whose farm or premises Bacterial Ring Rot has been discovered may not without permission plant therein in the year following any potato seed except such as is fully certified. Penalties are to be imposed for violations of the Act.

Commorientes.—C. 13 is one of the Model or Uniform Acts which the Conference of Commissioners on Uniform Provincial Statutes recommended for enactment by Provincial legislatures, of which particulars are given under Manitoba (*supra* p. 68).

Judicial Indetermination.—C. 25 was passed to remedy a situation resulting from litigation regarding an election return, wherein the Supreme Court of the Province was equally divided. The Act fixed a time within which a binding and conclusive disposition and determination of the pending dispute and litigation should be made, failing which the seat in the legislature should by proclamation be declared vacant.

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Of the Acts passed, 23 were Public and 5 Private.

Children.—By C. 4 the right of the Court of Chancery to make a " sale or other disposition " of the lands of an infant is declared to include the right to mortgage. By c. 5 the Deputy Provincial Secretary is empowered to act in all matters as parent or guardian of any child in the Province who has come from the United Kingdom of Great Britain and Northern Ireland since September 1, 1939, in any case where there is no legal parent or guardian of the child in the Province ; the authority to continue during the period of the child's stay in the Province or until the consummation of the transfer of guardianship to another competent authority, or until the child's return to its legal parent or guardian. The authority includes consent to medical care, hospitalization and surgical operations and removal to an approved foster home, but does not include consent to marriage or adoption, nor is it to be used to prevent the child's return to its legal parent or guardian outside the Province when so requested by the latter, nor to interfere in any way with property, real or personal, belonging to the child.

Conditional Sales.—C. 6 requires notice in writing of intention to sell under a Conditional Sale Agreement to be given to the buyer and to anyone who guarantees payment of the amount due under the contract, in any case where the price of the goods exceeds $30 and the seller intends to look to the buyer or the guarantor for the deficiency on a resale.

Consumers' Taxes.—By c. 13 a tax is imposed upon consumers of tobacco, tobacco being defined as tobacco in any form in which tobacco is ordinarily consumed and includes snuff. The proceeds of the taxes are to be used for public health services.

Death.—C. 9 is an amendment to the Evidence Act providing that in the event of death of any member of His Majesty's Military, Naval or Air Forces, a death certificate signed by the Adjutant-General, Naval Secretary, Chief of Air Staff, or certain other officials shall be *prima facie* proof of death and of the facts stated in the certificate.

Economic Control.—By c. 17 producers, consumers and distributors of milk and cream are placed under control of a Protective Board which has power to grant or refuse licences, fix standards of prices and regulate sales. By c. 22, regulations having the force of law may be made by Order-in-Council fixing standards or minimum rates of remuneration to be paid for the hire of trucks, truck drivers and trucking service.

Judicature.—C. 16 confirms all Rules of Court made under the Judicature Act which may deal with substantive law. Such Rules are declared to be within the jurisdiction of the Judges and Lieutenant-Governor-in-Council. Certain specific Rules are then set out and confirmed.

The Judicature Act is also amended by authorizing the Lieutenant-Governor-in-Council to refer to the Supreme Court " any matter which he thinks fit to refer." The Supreme Court of Canada and the Exchequer Court of Canada are likewise given jurisdiction in cases of (*a*) controversies between Canada and the Province; (*b*) controversies between other Provinces and the Province; and (*c*) proceedings in which the parties by their pleadings have raised a question of the validity of a federal or provincial Statute, provided the trial Judge orders the case to be removed to the Federal Court for decision.

Name.—By C. 18, a change of a person's name effected by deed poll shall have no legal effect unless the deed is filed with the Registrar of Vital Statistics, and notices of the change are filed with the Registrar of Deeds and Prothonotary of the Supreme Court. An infant's change of name also requires the consent of a Judge of the Court of Chancery.

9. QUEBEC

[*Contributed by* THE HON. MR. JUSTICE FABRE SURVEYER.]

OF the 144 Acts 73 were public and 71 private. Those summarized below came into force June 22, 1940, except when otherwise stated).

Montreal University.—C. 3, amending 1939 c. 69, enlarges the powers of the Chancellor: he is President of the Administration Society and appoints and replaces the other seven members, whereas formerly five members were appointed by the Cabinet. The Act also enacts that the Society is no longer the agent of the Provincial Government in regard to the construction of the buildings on Maplewood Avenue, ownership being vested in it from the time of acquisition by the University.

Farm Credit Bureau.—By c. 6 the borrowing power of the Bureau is increased from twenty-five to forty-one million dollars. All loans to farmers bear interest at three per cent. per annum, and a period of twenty-five years is allotted for their repayment.

Woman Suffrage.—As from January 1, 1941, c. 7 grants to women the right to vote and to be eligible as candidates in Provincial elections.

Agents-General.—In order to develop outside commerce, to bring about the establishment of new industries, to promote tourism, etc., c. 10 re-enacts the Agents-General Act (R.S., c. 15, repealed by 1936, second session, c. 11), and enables the Cabinet to appoint, as Provincial representatives, agents-general for any country or place within or outside the Dominion. The Cabinet assigns their duties, fixes their remuneration, appoints the necessary employees, and authorizes all necessary expenses to be paid out of the consolidated revenue fund. The Act is to be carried out under the direction of the Minister of Municipal Affairs, Trade and Commerce. The Act, with retroactive effect as from January 1, 1940, came into force on April 10, 1940.

Public Service Board.—For the purpose of arbitrating, supervising, and controlling in the matter of public services and public utility enterprises, a Public Service Board is created by c. 11 and is substituted for the Transportation and Communication Board, the Public Service Commission and the Electricity Board and Commission, and is empowered to exercise all the powers and assume all the obligations arising out of the Provincial Transportation and Communication Act (1939, c. 16) or out of all other Acts, regulations, etc. The Board consists of five members, including a president and vice-president appointed during good conduct with a fixed remuneration payable out of the consolidated revenue fund. Among other provisions the Act enacts in regard to reports, contracts between municipalities and public services, etc., and repeals several Acts. The Attorney-General is authorized to carry out the Act the provisions of which prevail over those of any other law applying to the Board. The Act came into force June 22, 1940, but the powers attributed to the Board by substitution, etc., were only acquired upon proclamation of the Lieutenant-Governor, August 1, 1940.

War-time Power Control.—Since war-time industries require that the best possible use be made of all motive power available, certain extraordinary powers are granted to the Public Service Board by c. 12: notwithstanding any contract to the contrary, the Board may control in the Province the production, transformation, transmission, distribution, supply and use of motive power to ensure the best possible utilization thereof. With the approval of the Cabinet, it may make regulations to oblige any person to furnish necessary information, and, in general, to put into effect the provisions of the Act. Sanctions are given for refusal to comply.

The Act came into force July 6, 1940, by proclamation of the Lieutenant-Governor; its repeal will be likewise fixed by proclamation, or in any event, one year after the date of a proclamation of the Governor-General of Canada declaring that the state of war has ceased in Canada.

Retail Sales Tax.—C. 14 declares that, in order to provide for the needs of Public Service, every person shall pay to His Majesty in the rights of the Province, at the time of making a purchase at a retail sale or of taking delivery of any personal property, a tax equal to 2 per cent. of the purchase price; this applies equally to purchases outside the Province by residents or persons carrying on business within the Province. However, exemptions from the tax are granted as to bonds and shares of a corporation, debts, insurance premiums, food stuffs, farm implements, fares on tramways, meals, school books, etc. The vendor must possess a registration certificate and acts as agent for the Provincial Treasurer; he must remit the amounts collected at specified times. Sanctions are provided for infringement of the Act, and prosecutions are taken in the name of the Attorney-General. Every sum due the Crown constitutes a privileged debt ranking immediately after law costs. Expedient arrangements may be made by the Provincial Treasurer with the vendor, and the Cabinet is authorized to make any needed regulations for the carrying out of the Act. The expenses are to be paid out of the consolidated revenue fund during the year 1940-41.

Tobacco Tax.—By c. 15 the consumption of tobacco is taxed at the rate of 10 per cent. of the retail price. The Act also constitutes the vendor agent of the Provincial Treasurer for collection and remission, decrees sanctions for any violation and prosecution in the name of the Attorney-General.

Income Tax.—C. 16 enacts that every person residing, employed or carrying on any business or avocation in the Province is obliged to pay an annual tax upon his income equal to 15 per cent. of the amount payable to the Dominion Government in virtue of the Income War Tax Act (R.S., Canada, c. 97). Various regulations govern time of payment and penalties for delay, and the Minister of National Revenue or the Provincial Treasurer are empowered to have the goods and chattels of persons in default to pay the tax distrained and sold at auction. The Act came into force July 1, 1940.

Corporation Tax.—By c. 17 " personal corporation " is defined for the purposes of the Corporation Tax Act (R.S., c. 26, as enacted by 1939, c. 19); the annual tax on profits of various designated companies is increased from 2½ per cent. to 5 per cent. and the personal corporation taxed under Income Tax Act (1940, c. 16) is exempted from the tax on profits. Various other exemptions are delineated as to parts of revenues in the cases of real estate companies, companies with head office inside the Province, etc. The Act takes effect retroactively from April 1, 1940.

Succession Duties.—C. 18 provides that all legacies, gifts or subscriptions for religious, charitable or educational purposes are free from duties if made unto a corporation which has an establishment in the Province or unto a person domiciled therein, under the condition that such purposes be carried out within the Province, or even outside the Province provided the Province or State where such legacies, gifts or subscriptions are to be utilized allows the same exemption for similar legacies made by its resident for use in the Province of Quebec. Money payable under the Educational Institutions' Insurance Act is also duty free. Renunciation by heirs, legatees or wives common as to property does not affect the *quantum* of the duties.

Motor Vehicles.—C. 19 contains regulations concerning speed, the passing on curves, the necessary signals on turning. It obliges the owner, chauffeur, tramway or railway company, etc., to make a report in eight days to the Revenue Branch at Quebec of every accident caused or sustained by a motor vehicle. Previous enactments in regard to level crossing stops and to signs placed by the Minister of Roads are repealed.

Abolition of Seigniorial Rents.—C. 25 amends a previous law enacted in 1935 which had provided for a Syndicate of the county, town and city municipalities with lands liable for constituted rents to pay a certain designated lump sum to the creditors of the rents, and enabled the persons owing these rents to repay the capital sum at a low rate of interest over a period of forty-one years beginning November 11, 1941. Now, the Syndicate may borrow up to fifty thousand dollars. In addition, numerous provisions are enacted: the Seignior creditor or, in case of dispute, the Treasurer were to be paid the capital of the rents by November 11, 1940, provided that their claims were established to the satisfaction of the Board of Commissioners. However, where the collection of rents had been so neglected that redemption seemed undesirable, the Board might exclude such rents from the abolition, the Seignior retaining his rights for rents due and unprescribed.

The Seigniorial Rent Abolition Act is given retroactive effect in regard to the Quebec Government where the latter is creditor of constituted rents replacing seigniorial rents. The Act 1938, c. 86, is repealed.

Mines.—Under c. 28 certain formalities are enacted, where the Minister intends to revoke a concession of mining rights ; if he decides that there is reason for revocation and for indemnity, he proceeds under the Expropriation Act ; if no indemnity is granted, the owner, within six months, may appeal from this decision to the Court of King's Bench.

Labour Council.—C. 37 creates a consultative organization called the Superior Labour Council to study social questions, especially those relating to the protection of labourers and wage-earners, apprenticeships, vocational orientation, social insurance, suppression of slums, etc. The Council is composed of twenty-four members appointed for a period of three years by the Cabinet on the recommendation of the Minister of Labour ; eight of the members are chosen to represent labour, eight to represent capital, and the remaining eight appointed by the Cabinet are persons experienced in social and economic problems. Six associate non-voting members may also be appointed by the Cabinet. The Council elects a Permanent Board of six members to prepare its work and serve as connecting link between the Council and the Minister of Labour. The Minister of Labour invites the Council to make a preliminary study of any particular problem, or the Council of its own initiative also directs its researches upon any particular aspect of social problems, its programme of study being ratified by the Minister of Labour. The services of the members of the Council and of the Permanent Board are gratuitous, and the Minister of Labour has charge of the carrying out of the Acts which came into force May 17, 1940.

Collective Agreements.—Since social justice requires that labour be regulated when unjust conditions exist and that the dignity of work and the necessities of the employee and his family be taken into account, c. 38 enacts more efficacious measures in regard to Collective Agreements. It repeals the former Act (1937, c. 49) and its amendments, but all decrees and proceedings, etc., remain in force.

Minimum Wages.—Under c. 39 a corporation, composed of at least five members appointed by the Lieutenant-Governor is created and named the Minimum Wage Commission ; it establishes minimum wages in collaboration with employers and employees and controls and supervises working conditions generally, arbitrating disputes between employers and employees. The Commission has power to levy upon professional employers in virtue of ordinances a sum not exceeding 1 per cent. of the wages paid, and to compel the keeping of registers containing details of the nature and hours of work of all employees. In addition, the Act regulates the method of establishing ordinances and decrees that no employer may by agreement stipulate a lower wage or less benefit than is fixed by ordinance. The Act is applicable to all employees with the exception of household servants, agricultural workers, and those governed by collective labour agreements. Sanctions are also provided. The Commission is vested in the rights and subject to the obligations of the Fair Wage Board.

Old Age Pensions.—Further provisions are made concerning old age pensions by c. 42, amending 1936, c. 1, as amended by 1936 (second session), c. 5. Every applicant for a pension is required to remit the secretary's certificate setting out any real estate standing in his name during the preceding five years on the valuation roll of the municipality. The Act also enables the Cabinet, except where inconsistent with other designated Acts, to impose upon municipalities a contribution not over 2 per cent. of the pensions paid to the pensioners domiciled therein and to determine the domicile of the pensioners.

Juvenile Delinquents' Court of Quebec.—By c. 53 the Cabinet is authorised to establish, by proclamation, for the City of Quebec, a court of record called "Juvenile Delinquents' Court of Quebec," and to appoint a judge to preside over the court. Regulations are enacted relating to salary, the powers of court and judge, sittings of the court, etc.

Active Service.—C. 57 bestows privileges for students in His Majesty's troops. It authorizes professional associations to exempt all candidates who have been or are liable to be called into active service during the present war from all written or oral examinations necessary for practice. The associations may make by-laws dispensing with time of clerkship, stage of studentship, or payment of fees, and may reduce the number of courses or examinations for the duration of the present war and for one year after the end of hostilities.

Railways.—By c. 65 any railway incorporated under an Act of the Legislature is authorized to make an application for an arrangement with its secured and unsecured creditors to a judge of the Superior Court, who has discretionary power to grant it under certain specified conditions. There are provisions, also, concerning alteration and modification of any arrangement or compromise and concerning trust deeds or other instruments affecting creditors' rights.

Successions.—C. 68 enables a judge of the Superior Court to appoint, on petition of an heir, an executor to a succession and extend the duration of powers when an heir is domiciled outside of the Province and the other heirs and legatees have been called in on the petition.

Pledge of Agricultural Property.—C. 69 introduces a notion approaching the common law chattel mortgage. For a period not over eighteen months, the farmer is allowed to pledge as security for a loan, his livestock and present and future farm produce. While he may keep possession of this property, he cannot charge for custody or conservation, and the creditor may demand, seize and sell it on default of payment, remitting any surplus to the farmer. Moreover, if the latter requires, the creditor cannot refuse to realize on the property after seizure, nor can he stipulate that he becomes owner on default of payment ; otherwise, he acquires rights as under the contract of pledge.

Evidence.—Under c. 70 the husband and wife when separate as top roperty may give evidence against each other in relation to the origin or administration of property belonging to either of them. But the default of a party to examine his consort cannot be invoked against him.

Expropriation.—All expropriations authorized by Provincial law are placed under the provisions enacted by c. 71, which prevails over any contrary provisions, except those of the Municipal Code.

Landlord and Tenant.—An amendment (No. 91) to the Landlord and Tenant Act gives continuing effect to a writ of possession. The new section provides as follows: A writ of possession issued pursuant to an order made under s. 53 shall be effective to enable the sheriff to maintain the landlord in possession of the land described therein as against any person bound by the proceeding or any person claiming through or under him.

Volunteers and Reservists.—Proceedings, judicial or extrajudicial, for cancellation, sale or foreclosure or upon a personal covenant contained in an agreement for the sale of land or in a bond, mortgage or other lien or encumbrance affecting land made by a volunteer or reservist, or the obligations of which have been assumed by or have devolved upon a volunteer or reservist, either before or after the date on which the Act (No. 109) comes into force, cannot be taken during the continuance of the war or until the expiration of two years after its conclusion or after the discharge of the volunteer or reservist, whichever first takes place, without the special leave of the Court of King's Bench. Protection is also afforded to the personal property of volunteers and reservists against seizure or sale for taxes or under executions. Provision is made that, where delay in taking proceedings is caused by the Act, such delay shall not prejudicially affect any right or interest which might otherwise lapse under the statutes of limitation.

Another provision requires the remission of taxes on land occupied by a volunteer or reservist at the time he joins or leaves to join the forces of His Majesty or any of His Majesty's allies, where the land is assessed at an amount not exceeding $2,500. Where the revenue from such land is insufficient to pay the taxes, then the taxes must be remitted to the extent to which they exceed the revenue.

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Of the 113 Acts passed, 70 were Public.

University of Montreal.—C. 7, amending the Act to come to the assistance of University of Montreal (Statutes of 1939, c. 69), obliges the Government to make an annual payment of three hundred and seventy-five thousand dollars to the University of Montreal Administration Society to aid in defraying the cost of instruction, etc. ; in addition, a grant of two million, five hundred thousand dollars is made to the Society to be expended in completion of the building. The Act was assented to May 9, 1941.

Interpretation.—C. 14, amending the Interpretation Act (Revised Statutes, 1925, c. 1), enacts that, when an Act or any regulation made under its authority is repealed, all rights acquired, penalties incurred, etc., remain unaffected ; formerly, the repealing statute could provide otherwise. The Act also enacts concerning the effects of replacement or consolidation of laws.

Revised Statutes.—Under c. 16 an amendment to the Act to provide for the consolidation of the laws of the Province (Statutes of 1939, c. 12) provides that all laws in force of a general and permanent nature, *excepting the codes,* are to be consolidated, basic authorities cited, and desirable changes suggested in special reports. Previous to the amendment, the carrying over of chapters and provisions from existing codes was permitted in unification of the laws.

Executive Power.—C. 22 amends different Acts concerning the administration of the Province, and creates fifteen departments, namely: the Departments of the Executive Council, of the Provincial Secretary, of Lands and Forests, of Colonization, of Agriculture, of Public Works, of Health and Social Welfare, of Mines and Maritime Fisheries, of Municipal Affairs Trade and Commerce, of Fish and Game, of Education, of Labour, the Treasury Department and the Roads Department. The Lieutenant-Governor is enabled to appoint under the Great Seal from among the members of the Executive Council, fourteen Ministers including a Prime Minister to be *ex officio,* President of the Council.

The Act also amends the Revised Statutes of 1925, c. 83, by enacting the Act respecting the Department of Fish and Game which gives the Minister of Fish and Game control and management of the fisheries within the Province's Jurisdiction, except maritime fisheries, of everything connected with hunting, of the Laurentides National Park, the Trembling Mountain Park, the Gaspesian National Park, and the Mount Orford National Park ; the functions, powers and duties of the Minister of Health and Social Welfare are delineated. The Act came into force on the day of its sanction, May 9, 1941.

Income Tax.—C. 23 defines " net income," fixes the percentage of Dominion Tax constituting the Provincial Tax, exempts married persons with incomes of not more than two thousand dollars and unmarried persons having incomes of not more than one thousand dollars, and states the application of the Act ; which was assented to April 29, 1941.

Liquor Act.—C. 24 enacts various provisions in regard to the sale of alcoholic liquor, permits, etc. ; it also forbids advertisements representing that alcoholic liquor is beneficial to health or possesses nutritive or curative value. The Act came into force the day of its sanction, May 9, 1941.

St. Lawrence Canalization.—The preamble to c. 27 states that the Dominion Government has asked the Government of this Province to fix the conditions of its participation in the agreement between the Dominion Government and that of the United States to canalize the St. Lawrence and to develop its water-powers ; and the Act enacts that the Cabinet may authorize the Minister of Lands and Forests to enter into an agreement with the Dominion Government respecting the matter, the Cabinet, however, to determine the conditions of the agreement in the best interests of the Province. The Act came into force May 17, 1941.

Beauharnois Light, Heat and Power Company.—C. 28 empowers the Cabinet to authorize the Minister of Lands and Forests to acquire the undertaking of the Beauharnois Light, Heat and Power Company or the whole or part of its movable and immovable property by mutual agreement or expropriation. Various provisions are also made concerning the procedure in case of expropriation, changes after acquisition, etc., and the sums necessary for the carrying out of the Act are payable out of the consolidated revenue fund. The Act was assented to May 17, 1941.

Drainage.—Under c. 30 a Drainage Bureau consisting of two members appointed by the Cabinet is created, with the duty of establishing a system for regulating drainage works, in collaboration with municipal councils, interested persons and various governmental departments. In case of disagreement between the members, the Cabinet appoints a member *ad hoc* and the Bureau is not dissolved by vacancies or total lack of members.

On request or of its own initiative, the Bureau is enabled to make preparatory examinations and surveys for drainage construction in any part of the Province, and, where it considers it expedient to undertake drainage construction in any basin, to prepare a project determining the territory comprised in the drainage basin, the place and specifications of the work to be done, etc., the project to include all ancillary works necessary to lead the water carried off to a sufficient outlet and in particular the building or rebuilding of bridges and the removal of artificial or natural obstructions in any water-course serving as an outlet ; no project, however, can provide for the removal of dams developing a force of 200 horse-power or more of the ordinary flow during six months, without the consent of the owner. In addition, the Act regulates concerning indemnities, allowances, oppositions made by interested persons, performance of the work, etc.

The Public Service Board is constituted arbitrator of disputes in matters of drainage ; decisions of the Board are by ordinance, which when homologated on petition, become executory as a Superior Court Judgment, an appeal lying to the Court of King's Bench where the amount in dispute exceeds five hundred dollars. Penalties are provided for any violation, and notwithstanding any general law or special Act, no one is exempt from the application of the Act, not even the services of the Provincial Government. The Minister of Agriculture is charged with the carrying out of the above Act.

Farm Credit Bureau.—The Farm Credit Bureau's borrowing powers are increased from forty-one million dollars to forty-six million dollars by c. 31 ; the Act decrees also that every stipulation for the benefit of the Bureau is irrevocable notwithstanding article 1029 of the Civil Code.

Agriculture.—By c. 24 the Cabinet, upon conditions fixed by the Lieutenant-Governor, may authorize the Minister of Agriculture to purchase and resell the machinery and equipment necessary for a beet-sugar factory, the moneys required to be paid out of the consolidated revenue fund up to one hundred and fifty thousand dollars ; the Cabinet may also authorize the Minister to guarantee to the *Compagnie de sucre de betterave Richelieu, Ltée.*, the delivery at the plant it is to erect of at least one hundred thousand tons of sugar beets per year for five years, upon conditions agreed upon between them ; and to undertake, in default of delivery, to pay one dollar per ton not delivered. The Act came into force May 17, 1941.

Mining Act.—C. 35, amending the Mining Act (Revised Statutes, 1925, c. 80) and amendments, renders necessary a special licence issued upon conditions fixed by the Cabinet for the extraction of peat or marl. It further declares that notwithstanding the provisions of the Mining Act, every holder of a claim or of a development licence, on active service during the present war, is exempt from the obligation to perform the work required by that Act, on making written application for exemption to the Minister of Mines. The privilege, however, is not extended to persons obtaining their claim or licence after enlistment for active service. The Act came into force March 20, 1941.

Mineral Exploration.—For the purpose of acquiring and disposing of mining rights under the Mining Act, c. 37 provides for the formation of Mineral Exploration Partnerships without personal liability, and regulates concerning shares, members, powers of the executive committee, penalties, etc.

Cities and Towns' Act.—C. 41, amending the Cities and Towns' Act (Revised Statutes of 1925, c. 102) and various amendments, grants women the right on an equal basis as men to vote in municipal elections and eligibility for office as mayor, aldermen or other municipal office, whereas formerly only widows and spinsters were granted these privileges. The mayor, without being bound to take the prescribed oath, is *ex officio* a justice of the peace within the municipality during his term of office, but he cannot decide cases in which the municipality or its officers are interested parties. The Act further regulates concerning the vote for approval of by-laws, building restrictions, safety devices on private drains, and defines taxable immovables. The Act was assented to May 9, 1941.

Contributions to War Effort.—C. 43 empowers every municipal corporation, whatever be the laws governing it, to contribute unappropriated moneys out of its general funds toward the country's war effort and, especially, to subscribe for all war work and to purchase war savings stamps or war savings certificates of the Government of Canada. The Act came into force May 17, 1941, and remains in force until the Governor-General has declared the cessation of the present state of war by proclamation.

Education.—Every person teaching in a public or private school or exercising the function of professor or principal is required by c. 47 to produce each year a certificate stating that he suffers from no infirmity or disease rendering him unfit for teaching, and a certificate from a phthisiologist attesting that a clinical and radiological pulmonary examination shows that he is free from tubercular disease ; if it is proved that he is suffering from tubercular disease, the contract of engagement is cancelled without indemnification, and he must immediately cease to perform his duties.

In addition, no person excepting a minister of religion or a member of a corporation created for educational purposes may direct or open an independent or private school without having previously filed a declaration to that effect. The Act also states that any school board may with money in its general fund purchase war saving certificates or war saving stamps from the Government of Canada and distribute them as prizes or awards, thereby being entitled to the same benefits as if the amount so distributed had been employed in the purchase of Canadian books according to the provisions of the Education Act.

Specialized Schools.—Under c. 48 the Superior Council of Technical Education, composed of eleven designated members whose services are gratuitous, is established. Among other provisions, the Act enumerates the schools to which it is applicable, provides for their organization and declares that the Province is to assume the rights, obligations and liabilities and acquire the assets of these schools. The Provincial Secretary is to be charged with the carrying out of the Act, when it comes into force by proclamation of the Cabinet.

Health and Social Welfare.—C. 55 obliges every physician, medical superintendent of a hospital and head of a public institution or of a place of detention to report all cases of venereal disease under his supervision or care to the Department of Health and Social Welfare ; the powers of the Director are delineated, compulsory treatment and isolation ordered for those affected, and sanctions provided for any violation of the Act.

Bar Act.—Women are admitted to the study and practice of law by c. 56, which came into force April 29, 1941.

Bond Issues.—C. 58 repeals the Act to Protect People's Savings and Prevent Over Capitalization which limited every issue of bonds or debentures for industrial purposes to the amount representing the real value of the immovable property affected by the hypothec given to guarantee the issue, boats, vessels or ships of a navigation company being considered as immovable property ; moreover, no issue of bonds or debentures is invalidated by the repealed Act.

Seigniorial Rent Abolition.—C. 61, amending the Seigniorial Rent Abolition Act (Statutes of 1935, c. 82) as amended by the Statutes of 1940, c. 25, decrees that all constituted rents affecting immovables in the Province and included in *terriers* deposited under the Seigniorial Rent Abolition Act are treated as constituted rents replacing seigniorial dues and are subject to all the provisions of the Act.

Agricultural Abuses.—Enactments concerning the obligations of dog owners and the responsibility of municipalities for damages caused by these animals are made by c. 62, amending the Agricultural Abuses Act (Revised Statutes 1925, c. 264). Except in unorganized territories, the owner of a dog is obliged to make a declaration to the municipality and to have a licence in the form of a special identity tag attached to his dog, and in unorganized territory no dog is allowed to wander between May 1 and December 15 ; any dog found wandering in violation of these provisions may be destroyed by any person, and must be locked up or destroyed by the municipality. The municipality is also responsible for damages caused by dogs to sheep or other farm animals within its territory.

The Sheep-Owners' Compensation Act and the Stray Dogs Act are repealed by this Act, which came into force by proclamation April 12, 1941.

Workmen's Compensation Act.—By an amendment to the Workmen's Compensation Act (Statutes of 1931, c. 100), c. 64 forbids any recourse in certain designated circumstances against the servants or agents of the employer of the injured workman by reason of any fault committed in the performance of their duties.

Successions of Members of Armed Forces.—By c. 66 any minor on active service in His Majesty's armed land, sea or air forces, may dispose by will of all movable property, and such property is exempt from duties imposed by the Quebec Succession Duties' Act (Revised Statutes 1925, c. 29) if the property after deducting debts and charges does not exceed one thousand dollars. Previous to the amendment no minor could make a valid will.

The Act is retroactive to September 1, 1939, and ceases to be in force one year after the date of a proclamation by the Governor-General of Canada that the present state of war has ceased.

Offences and Quasi-Offences.—C. 67 limits the scope of responsibility for accidents by decreeing that no recourse lies in the case of accidents contemplated by the Workmen's Compensation Act (Statutes of 1931, c. 100) except to the extent permitted by such Act.

Securities.—C. 67 also declares that the obligation to renew registration every thirty years on pain of extinction does not apply to the rights created by a trust deed guaranteeing an issue of securities.

Peremption.—The two years' period required for peremption of a suit is computed by c. 68 from the first day on which the party suing could after the filing of the last useful proceeding take another useful proceeding. This settles an important point of procedure concerning which there had been conflicting jurisprudence.

Inspection of Documents.—Under c. 68 also, notaries are not bound to give inspection of wills which have been revoked, except upon the testator's demand or upon an order for inspection.

10. SASKATCHEWAN

[*Contributed by* J. P. Runciman, Esq., *Legislative Counsel.*]

One hundred and sixteen Acts were passed in the session, of which three were private.

Revised Statutes.—The Statutes of Saskatchewan are revised and consolidated every ten years. In 1938 an Act was passed establishing a commission of three persons, with ample powers, to effect the necessary revision and consolidation for the present decade. The commission having completed its work up to the end of 1939, c. 2 recites this fact, directs the commissioners to include the Statutes of 1940 in the roll, and provides that, when a copy of the roll, properly attested, has been deposited in the office of the Clerk of the Legislative Assembly, the Lieutenant-Governor may by proclamation declare a date on which the Revised Statutes of Saskatchewan, 1940, shall come into force.

Succession Duty.—Pursuant to an amendment (No. 12) to the Succession Duty Act, succession duty is now payable not only upon property situated in the Province passing on a death but also upon beneficial interests in property outside the Province passing on the death of a person domiciled in the Province. By another amendment the period applied in respect of gifts *inter vivos* has been changed from November 21, 1903, to twenty years prior to the death.

King's Bench.—A new section placed by No. 23 in the King's Bench Act provides that, where an action is brought to enforce any right, legal or equitable, the court may permit the amendment of any pleading or other proceeding therein upon such terms as to costs or otherwise as it deems just, notwithstanding that, between the time of the issue of the writ and the application for amendment, the right of action would, but by reason of action brought, have been barred by the provisions of any statute ; provided that such amendment does not involve a change of parties other than a change caused by the death of one of the parties.

In any action brought to recover damages or other compensation for or in respect of bodily injuries sustained by any person, the court may order that the person, in respect of whose injury the damages or compensation is sought, shall submit to be examined by one or more duly qualified medical practitioners, whom neither party proposes to call as a witness or witnesses at the trial of the action. Formerly the order could only provide for an examination by one medical practitioner.

A direction by a judge that an action or issues shall be tried or damages assessed by a jury can now be made only upon application. The previous provision was not clear on this point.

In actions where the claim, dispute or demand arises out of a tort, wrong or grievance in which the amount claimed exceeds $1,200, and in actions for a debt or on a contract in which the amount claimed exceeds $1,200, any party may demand a jury. In the first instance " $1,200 " has been substituted for " $800 " and in the second instance for " $1,000."

District Courts.—The above-mentioned amendment to the King's Bench Act, with respect to the physical examination of parties, was also made in The District Courts Act by No. 24.

The jurisdiction of the districts courts was formerly restricted to certain matters in which the amount involved did not exceed $800. This is now $1,200.

Executions.—A registered writ of execution affecting land now remains by No. 30 in force for the lifetime of the judgment under which the writ is issued, without registration of a renewal of the writ. Prior to this amendment a writ ceased to bind the land at the expiration of six years from the date of its registration unless within that period a renewal of the writ was filed in the proper office.

Fatal Accidents.—An amendment (No. 32) to the Fatal Accidents Act provides that, in an action brought under the Act, damages may also be awarded in respect of: (*a*) any medical or hospital expenses of the person injured, consequent upon such injury, which would have been recoverable as damages by the person injured if death has not ensued ; and (*b*) the funeral expenses of the deceased person ; if such expenses have been incurred by any of the parties for whom and for whose benefit the action is brought.

Coroners.—The Coroners Act was amended by No. 34 inserting a new section providing that where the Attorney-General has reason to believe that a deceased person has died under circumstances which in his opinion make the holding of an inquest advisable he may direct any coroner to conduct an inquest into the death of such person ; and that, upon such direction, the coroner shall proceed to conduct an inquest in accordance with the provisions of the Act whether or not he or any other coroner has viewed the body, made any inquiry or investigation, held any inquest into or done any other act in connection with the death.

Dependants' Relief.—C. 36 is new legislation authorizing the Court of King's Bench to make orders providing for the maintenance of certain dependants of testators. The Act is a safeguard against the making of unfair wills to the prejudice of the wife or husband of the testator, a child of the testator under twenty-one years or a child over that age who by reason of mental or physical disability is unable to earn a livelihood. An application may be made to the Court of King's Bench by or on behalf of any dependant of a testator for an order making reasonable provision for his or her maintenance, and upon such application the court may in its discretion make an order charging the whole or any portion of the estate, in such proportion and in such manner as it deems proper, with payment of an allowance sufficient to provide such maintenance as the court thinks reasonable, just and equitable in the circumstances.

This legislation has the same purpose as legislation[1] enacted in England in 1938 and legislation which has for some considerable time been on the statute books of New Zealand, Ontario and British Columbia.

Life Insurance.—The Saskatchewan Insurance Act was amended by No. 39

[1] See Testator's Family Maintenance by E. B. Bodkin, *Jour. Comp. Leg.*, 3rd Series, Vol. xxiii, 155.

inserting the following provision: An agreement, express or implied, contained in a contract of life insurance for the payment of insurance money in the event that the insured commits suicide shall be lawful and enforceable.

School Teachers.—An amendment (No. 75) to the School Act provides that, notwithstanding any agreement to the contrary, every teacher shall be paid a minimum salary of $700 per year ; but the Minister of Education is empowered, upon the written request of a school board, to authorize engagement at a lower rate of salary for a specified time.

School Divisions.—No. 76 provides for establishment by the Minister of Education, upon petition, of school divisions consisting of not less than twenty school districts. Each school division will be administered by a divisional board of five members, consisting of delegates chosen by the school districts within the division. This is an experimental measure with a view to economy in school administration.

Deserted Wives' Maintenance.—No. 88 authorizes an application to the court by or on behalf of a child who has been deserted by his father, for an order for payment of a weekly sum for the support of the child. The maximum weekly sum which may be allowed is $20.

Another amendment to previous legislation provides that, where a husband and wife are living apart under a separation agreement, a maintenance order may be made in favour of the wife where: (*a*) by the agreement the husband has agreed to contribute to the support and maintenance of his wife and is in default thereunder ; (*b*) by the agreement the husband has not provided suitably according to his circumstances for the support and maintenance of his wife ; or, (*c*) the wife has become or is likely to become a public charge or in need of public assistance ; whether or not the agreement contains provision whereby the wife has agreed to release her husband from liability or further liability for her support and maintenance or to the effect that this Act shall not apply.

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NINETY-ONE Public Acts were passed and two Private.

Revised Statutes.—The Commission appointed in 1938 to revise and consolidate the statutes of Saskatchewan completed its task in November, 1940, and the revision and consolidation, intituled " The Revised Statutes of Saskatchewan, 1940," was brought into force by proclamation on February 1, 1941. The statutes, which are arranged in appropriate groups, number 325 chapters running to 4,538 pages, and are contained in three volumes. In an appendix, published as a separate volume, are found certain constitutional and other Acts affecting the Province (Schedule I), while Schedules II, III and IV show respectively (1) the history and disposal of Acts ; (2) the Acts and parts of Acts repealed from the coming into force of the Revised Statutes ; and (3) the Acts and parts of Acts omitted from the consolidation but remaining unrepealed. The index is also contained in this volume.

Highways.—With a view to possible road widening, a new section (No. 3) prohibits the erection of buildings and additions to buildings within 300 feet from a provincial highway outside a city, town, village or hamlet, unless with the permission of the Minister of Highways and Transportation.

Income Tax.—An amendment (No. 10) to the Income Tax Act allows the following deductions from income, namely (1) $300 for each child brought from the United Kingdom on account of the present war and maintained in Canada by the taxpayer, and (2) the amount of tax on income which the taxpayer paid or became liable to pay within the taxation period to the Dominion of Canada under The Income War Tax Act (Canada).

Executions.—No. 15, an amending Act, clarifies amendments made at the last session of the Legislature extending the lifetime of registered writs of execution affecting land.

Attachment of Debts.—An amendment (No. 17) to the Attachment of Debts Act provides that a garnishee summons may be directed to one or more persons alleged to be indebted, either jointly or severally, to the defendant or judgment debtor. This amendment was made in view of a judgment of the Saskatchewan Court of Appeal that more than one garnishee cannot be included in the same garnishee summons, where there is no joint indebtedness. Another amendment provides that, on a summary hearing or trial of an issue the Court of King's Bench or a judge thereof may, after inquiring into the claim or suggested interest of a third person to or in the debt attached, hold it to be void as against the garnishee, plaintiff or judgment creditor as being a fraud as against creditors or otherwise impeachable by them.

Limitation of Civil Rights.—A new section (No. 18) inserted in the Limitation of Civil Rights Act qualifies the provisions of The Crop Payments Act which protects the share of the crop deliverable to a vendor of land, a mortagee or a lessor under a crop payment agreement, mortgage or lease. This new section provides that, if in any year the share of the crop belonging to the purchaser or mortgagor or the lessee under a lease collateral to an agreement of sale or mortgage, along with any other means which he may have, is insufficient to pay all unpaid legitimate costs of harvesting the crop and to provide a necessary living allowance for the support of himself and his family until the crop of the following year is about to be harvested and to provide necessary seed and costs of his farming operations until that time, then The Crop Payments Act shall in such year apply only with respect to the reduced share of the crop deliverable pursuant to an agreement to be made by the parties or, failing such agreement, pursuant to an order of the Debt Adjustment Board which may be made on the application of either party. It is further provided that the vendor, mortgagee or lessor shall not take any proceeding to enforce delivery of his share of the crop except with respect to the reduced share deliverable pursuant to such agreement or order, and that any such prohibited proceeding taken shall be null, void and of no effect. The section does not apply to agreements for sale of land with chattels upon an entire consideration.

Marriage.—Health certificates are now required with reference to both parties to an intended marriage. Prior to this amendment (No. 66) a health certificate was required only with reference to the male party. These certificates, which are given by a medical practitioner after an examination, must state that the person mentioned therein is not a mental defective as defined in The Mental Hygiene Act, is not suffering from a mental illness as defined in that Act and is not suffering from a communicable disease, as defined in The Public Health Act, which is in a communicable state. The medical examination must take place within the ten days immediately preceding the date of the marriage.

Infants.—A new section (No. 68) inserted in the Infants Act provides that where an action is maintainable on behalf of an infant in respect of an accident from which injury to the infant has resulted and the guardian of the infant, acting on his behalf, has agreed on a settlement of the claim or action, the guardian or the person against whom the claim or action is made or brought may apply in King's Bench chambers for an order confirming the settlement. If the settlement is confirmed the party against whom the claim is made or action brought is *ipso facto* discharged from all further claims arising out of the accident or injury.

Vehicles.—The speed at which a truck or power unit may be driven has been restricted to 40 miles per hour, and the speed at which any vehicle may be driven, during the period from sunset to one hour before sunrise, has been restricted to 45 miles per hour. Another amendment (No. 77) provides that the driver of a vehicle upon a public highway within a city, town or village shall, at an intersection of highways where no traffic officer or police constable is on duty and no automatic signal is in operation, yield the right of way to pedestrians crossing such highway (*a*) within any clearly marked pedestrian crossing, or (*b*) if such highway meets or intersects another public highway at right angles and there is no clearly marked pedestrian crossing, within the prolongation of the lateral boundary lines of the adjacent or intersecting sidewalks at the end of a block.

British Child Guests.—Guardianship.—No. 80 gives to the Minister in charge of the administration of The Child Welfare Act all the powers of a parent or legal guardian with respect to any British Child Guest resident in Saskatchewan during infancy. These general powers do not, however, authorize the Minister to (*a*) consent to the marriage or adoption of a child guest ; (*b*) control or interfere with the real or personal property of a child guest ; (*c*) prevent a child guest from returning to Great Britain or Northern Ireland upon the request or with the consent of his parents or legal guardian ; or (*d*) act as guardian *ad litem*.

Registration of Partnerships.—Provision has been made for central registration, with the Provincial Secretary, of certificates respecting partnerships, in addition to registration in the proper judicial district. A copy of the certificate must be filed with the district registration clerk and the copy is forwarded by him to the Provincial Secretary, who files the same and publishes the certificate in *The Saskatchewan Gazette*. Hither the duty of publication rested on the firm, and that duty was often neglected. Another amendment (No. 81) prohibits the adoption as part of a business or firm name of any of the words "Imperial," "Crown," "King's," "Queen's," "Empire," "Royal," "Dominion," "Canadian," "Saskatchewan," "Co-operative," "Pool," or words of similar import ; and a further provision prohibits the adoption of a business or firm name identical with that in use by any person or firm or so nearly resembling the same as to be calculated to deceive.

Change of Name.—The Change of Name Act (No. 86), which was enacted in 1933, provides a simple procedure for a change of name by registration thereof in the office of the Provincial Secretary after publication of notice of intention to make the change. A new section authorizes registration with the Provincial Secretary of a change of name made in accordance with the law of any other province or any state or country.

Volunteers and Reservists.—The Volunteers' and Reservists' Relief Act (No. 87) passed at the 1940 session, contained provisions requiring remission of municipal taxes on land occupied by a person when he became a volunteer or reservist, where the land was assessed at an amount not exceeding $2,500. No remission was allowed where the assessment exceeded $2,500. That provision has been replaced by a new section which provides that, where land occupied by a person when he became or becomes a volunteer or reservist, and assessed against him or his wife at that time, is assessed at $2,500 or less, all municipal taxes thereon shall be remitted, and that, where the land is assessed at more than $2,500, taxes corresponding to an assessment of $2,500 shall be remitted. Another amendment protects the volunteer or reservist against seizure of chattels under lien notes, conditional sale agreements and chattel mortgages, or by way of distress for rent. The protection afforded by the Act to the property and interests of volunteers and reservists and their wives has been extended to the property and interests of (*a*) the mothers, if widows, of volunteers and reservists and (*b*) the personal representatives, the widows and widowed mothers of volunteers and reservists who are killed or die on service.

Floral Emblem.—The Floral Emblem Act (No. 88), in a few words, adopts as the floral emblem of the province the flower known botanically as *lilium philadelphicum andinum* and popularly called the "prairie lily."

11. NEWFOUNDLAND

During the calendar year forty Acts were passed. Many of these Acts make minor amendments or involve administrative matters of merely local interest, and only those hereinafter referred to seem likely to be of any general interest.

Death Duties.—Nos. 4 and 40 increase the amount of surtax payable under the Income Tax Act, 1929, and amendments and the amount payable as death duties under the Death Duties Act, 1934, and amendments.

Seal Fishery.—No. 5 applies the Act No. 3 of 1939 to the seal fishery of 1940 and thus allows sailing of ships on March 3 instead of March 5, prohibits the killing of seals before March 10 and allows killing seals on Sunday.

Shop Hours.—No. 7 is designed to regulate the closing hours for shops in any area declared by the Governor in Commission to be a shop closing area, and to regulate the working hours and conditions in such shops. Provision is made to allow the partitioning of shops in which more than one trade or business is carried on, one of which is exempt from the closing hours listed in Schedule A. Provision is also made for the sale of goods in case of illness and for the supply of necessaries to ships in certain cases.

Finances.—No. 9 authorizes the raising of a loan of one and a half million dollars upon the credit of Newfoundland, and provides for its repayment.

Defence.—No. 10 sets up a Department of Defence under a Commissioner who is charged with the control, regulation, management and supervision of Newfoundland Militia and recruiting, and is responsible for the administration of military affairs.

No. 11 provides for the raising, by voluntary enlistment, of an armed force for home defence service, to be deemed to be part of Newfoundland Militia and to be under the command of the Officer Commanding such Militia. The force serves without pay, but the Governor in Commission may pay such officers or other staff necessary to the constitution and operation of the force. The provisions of the Militia Act (No. 45 of 1939) apply to this force.

No. 25 empowers the Governor in Commission to make such regulations as may be necessary or expedient for securing the public safety, the defence of the realm, the maintenance of public order and the efficient prosecution of any war in which His Majesty may be engaged, and for maintaining supplies and services essential to the life of the community.

Savings.—Nos. 14, 22, and 30 authorize the Governor in Commission to issue and sell War Savings Certificates and Stamps and to apply the funds so raised to such purpose as may be prescribed from time to time.

Codfish.—Nos. 24 and 36 are designed to fix minimum prices for codfish, and, to secure that result, the Act permits the Commissioner for Natural Resources, under certain conditions, to compensate licensed exporters for certain losses which may result from the payment of such minimum prices.

Fishery and Agriculture.—No. 28 amends the Fishery and Agricultural Produce (Grading and Marking) Act, 1939 by providing for the appointment of inspectors to carry out the provisions of this Act and the Act No. 1 of 1939 and the making of regulations in connection with the packages in which produce may be sold and the sale of such produce. Potato regulations are contained in the Schedule to the Act.

Visiting Forces.—No. 29 is designed to make provision for dealing with visiting forces from all parts of the British Empire, except Great Britain, and deals with, *inter alia,* discipline and internal administration of visiting forces, the effect to be given to sentences of military courts for military offences and the relation between Officers Commanding in case of joint operations. Certain portions of the Army Act dealing with deserters and absentees, without leave, are applied to like persons in Newfoundland.

Adoption.—No. 32 is designed to give statutory basis to the adoption of children in Newfoundland.

Harbour Regulations.—No. 33 is designed to replace the Pilots' Fund by a trust account for each licensed pilot. The opportunity has been taken to make minor amendments to the Scale of Rates and in other respects.

Customs.—No. 38 imposes a war exchange duty of customs on certain goods imported into Newfoundland at a rate of seven and one half per cent. on the current domestic value. The Governor in Commission is authorized by order to exempt goods from this duty or to apply the duty to goods otherwise exempt.

Surtax.—No. 39 increases the amount of surtax and super tax payable by individuals in receipt of incomes in excess of ten thousand dollars, and certain classes of companies.

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During the calendar year thirty-three Acts were passed. Many of these Acts make minor amendments or involve administrative matters of merely local interest and only those hereinafter referred to seem likely to be of any general interest.

Highway Traffic.—No. 3 consolidates, amends and elaborates the previous Acts in force relating to highway traffic. Fairly comprehensive regulations form the Schedule to the Act, and wide powers are given to the Commissioner for Public Utilities in the matter of further regulations.

St. John's.—No. 5 amends in minor matters the 1921 Act and, in addition, gives the City Clerk power to impound rentals payable by tenants in order to collect taxes or assessments of landlords. Amounts so collected are credited against the indebtedness of the landlord. Certain provisions are added in connection with the power of sale given to the Municipal Council by the 1921 Act and its amendments. The Municipal Arrears Commission is given power to enforce the City's lien by foreclosure and sale in connection with collection of arrears of taxes and assessments. No. 21 gives the Council power to control and regulate the use of vehicles plying for hire within the City limits.

No. 6 gives the Governor in Commission power to control by regulation navigation in the Harbour of St. John's and in particular with respect to small boats engaged in carrying passengers in the harbour for hire or reward.

Load Lines.—No. 7 provides penalties for the taking or sending to sea of a British load line ship registered in Newfoundland when such ship is loaded in contravention of Section 6 of the Merchant Shipping (Load Line Convention) Act, 1935.

Co-operative Societies.—No. 8 permits Companies, Industrial and Provident Societies and Agricultural Societies to register under this Act. The rights and liabilities of such companies and societies are not affected, but their former registry is cancelled.

Militia.—No. 9 deems the Newfoundland Militia to be on active service within the meaning of the Army Act whenever the Governor in Commission by order so declares.

Local Government.—No. 10 authorizes the Governor in Commission to appoint the Commissioner for Public Health and Welfare to act in place of a local council where a local government area created under the Local Administration Act, 1937, is wholly within fifteen miles of any military or naval base or of any area leased to the United States for the establishment of any base.

Naval and Air Bases.—No. 12 gives effect in Newfoundland to the American Base Agreement and authorizes the execution of a lease under the Agreement.

Export Duty.—No. 13 provides for a levy per quintal on export of salt codfish and establishes a Salt Codfish Marketing Trust Fund into which shall be paid by the Government amounts equivalent to the sums paid under the levy.

Post Office.—No. 17 revises upward postal rates in certain cases and gives the Commissioner for Finance power to make regulations in connection with, *inter alia*, the space to be given to general news, current topics and articles relative thereto.

Excess Profits.—No. 25 provides for payment by corporations of an excess profits tax of twenty-five per centum. The total of income tax and excess profits tax is not to exceed thirty-two and one half per centum of the net taxable income.

Railways.—No. 30 provides for the raising of a loan of two million one hundred thousand dollars upon the credit of Newfoundland and to give effect to certain provisions in an agreement entered into between the Newfoundland Railway and the Defence Supplies Corporation of the United States of America in connection with the acquisition by the Railway of certain equipment and for the provision of certain facilities.

Codfish.—No. 32 is designed to fix minimum prices for codfish, and, to secure that result, the Act permits the Commissioner for Natural Resources, under certain conditions, to compensate licensed exporters for certain losses which may result from the payment of such minimum prices.

12. BERMUDA

THIRTY-FIVE Acts received the Royal Assent.

Entertainment Tax.—By No. 2 a tax is levied on all payments for admission to theatres, cinemas and other places of amusement.

Inquests.—The Coroners Act 1938 is amended by No. 3, so as to allow the adjournment of an inquest when a person is charged with murder or manslaughter.

Administration of Estates.—The administration of estates is facilitated by No. 7 by allowing persons entitled to obtain a grant to appoint an attorney.

Savings Bank.—Previous legislation is repealed by No. 16 which now contains the law on the subject.

Naval and Air Base.—In connexion with the Naval and Air Base established by the United States, No. 25 authorizes a survey by officers of that Government.

War Loans.—£200,000 is raised by loan under the authority of No. 28 in order that it may be lent free of interest to the British Government for the prosecution of the war.

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THE sixty-two Acts contained, as usual, a number dealing with local and personal matters and others containing only minor amendments.

Savings Certificates.—No. 5 provides for the issue of savings certificates on the lines existing in other parts of the Empire.

Acquisition of Land.—The provisions under the Public Works Department Act, 1930, are repealed and extended into a new Act, No. 11, to make better provision for the acquisition of land by the Government.

Naval and Air Base.—The principal Act (*supra*) is extended by No. 13, and No. 14 enlarges the area to be surveyed. No. 16 rehabilitates persons resident on St. David's Island who have been compelled to vacate in order to establish the Base. Further amendments were made by Nos. 18, 19, 22 and 25. The use of motor vehicles is authorized by No. 21 on the roads of the island for purposes connected with the United States Bases. The original Act leasing the Base, which was only for one year, is extended as regards time and the area.

III. AUSTRALIA

1. THE COMMONWEALTH OF AUSTRALIA

[*Contributed by* SIR GEORGE KNOWLES, C.B.E., *Solicitor-General and Parliamentary Draftsman.*]

NINETY-NINE Acts were passed in 1940 and this constitutes a record for any one year. War legislation included an important amendment of the National Security Act. There were many Acts increasing taxation and also a measure to impose a war-time company tax.

Assistance to States.—The States Grants Act (No. 66) grants an amount of £2,050,000 for the purposes of financial assistance to the States of South Australia, Western Australia and Tasmania. The Loan (Drought Relief) Act (No. 71) authorizes the Treasurer to borrow the sum of £2,800,000 for making loans to the States (except Tasmania) to alleviate hardship suffered by primary producers in consequence of drought. The States Grants (Drought Relief) Act (No. 72) grants £1,000,000 for the purpose of financial assistance to the States. Any amount paid to a State is to be applied in the alleviation of hardship suffered by wheat-growers in consequence of drought.

Bounties.—The Raw Cotton Bounty Act (No. 49) repeals the existing raw cotton bounty Acts and provides for the payment of a bounty on raw cotton produced on or before December 31, 1945. The rate of bounty, which is fixed in accordance with the Liverpool price, will vary from 4¾d. per pound in the first year to 3½d. per pound in the fifth year. The Wire Netting Bounty Act (No. 74) amends the Wire Netting Bounty Acts, 1939, by providing that the duty of Customs, the increase in which effects a reduction in the bounty, is not to include any special war duty of Customs. The Wine Export Bounty Act (No. 92) amends the Wine Export Bounty Act, 1939, by reducing the sum payable monthly to the Wine Export Encouragement Account in respect of every gallon of spirit for fortifying Australian wine from 5s. to 2s. 6d.

Broadcasting.—The Australian Broadcasting Commission Act (No. 59) provides for a reduction in that portion of the fees received from broadcast listeners' licences which is paid to the Australian Broadcasting Commission.

Customs.—The Customs Tariff (Canadian Preference) Validation Act (No. 55), the Customs Tariff (Exchange Adjustment) Validation Act (No. 54), the Customs Tariff (New Zealand Preference) Validation Act (No. 56), the Customs Tariff (Special War Duty) Validation Act (No. 57), and the Customs Tariff Validation Act (No. 53) validate the collection of duties of Customs demanded or collected pursuant to the respective Tariff proposals introduced into the House of Representatives in May and August, 1940.

Electoral.—The Commonwealth Electoral Act (No. 19) amends the Commonwealth Electoral Act, 1918-1934. Power is conferred on the Minister to declare any electoral Subdivision a remote Subdivision. Candidates for a Senate election whose names are included in a group may notify the Commonwealth Electoral Officer of the order in which it is desired the names of the candidates in the group shall appear in the ballot-papers. The Act makes provision for the placing of the groups in Senate ballot-papers. Slips bearing the names in the groups are to be enclosed in blank envelopes and deposited in a locked ballot-box which is then rotated. The group comprising the candidates whose names appear on the slip enclosed in the envelope first taken out appears first on the ballot-paper. The Act makes amendments to the existing provisions relating to informal ballot-papers. A ballot-paper is not to be treated as informal where the voter has indicated his first preference and consecutive preferences for all the remaining candidates except one, or where, in case there are two candidates in a House of Representatives election, the voter has placed the figure 1 in the square opposite the name of one candidate and left the other square blank. Matter relating to elections is not to be broadcast unless the announcement includes the true name and address of the author. The wearing by officers or scrutineers in a polling booth of badges and emblems of a candidate or political party is prohibited. It is now an offence to announce or publish, without the written authority of a candidate, any matter in which it is claimed or suggested that the candidate is associated with or supports the policy or activities of any association, league, organization or other body of persons. It is also an offence to advocate or suggest, without such authority, that, in a Senate election, a voter should place in the square opposite the name of the candidate on a ballot-paper, a number not greater than the number of Senators to be elected, or, in the case of an election for the House of Representatives, that a first preference vote should be given to the candidate. Nothing in these provisions is, however, to apply to any announcement or publication made or authorized by any *bona fide* political party respecting a candidate on behalf of that party. A new form of ballot-paper is prescribed for Senate elections on which groups of candidates' names appear from left to right. The Commonwealth Electoral (War-time) Act (No. 48) enables members of the Forces on active service to vote at Federal elections.

Excise.—The Excise Tariff Validation Act (No. 58) validates the collection of duties of Excise demanded or collected pursuant to Excise tariff proposals introduced into the House of Representatives on May 2 and August 20, 1940.

Gold Mining.—The Gold Mining Encouragement Act (No. 38) makes provision for the grant of financial assistance to the States for the development of the gold mining industry and also provides for refunds of gold tax to *bona fide* prospectors and other producers of gold. An amount of £150,000 is payable to the States to make advances to persons engaged in the production of gold. Minor amendments to the Act are made by the Gold Mining Encouragement Act (No. 2) (No. 46).

High Commissioner.—The High Commissioner Act (No. 52), which amends the High Commissioner Act, 1909-1937, removes from the Act a provision under which appointments of officers ceased to have effect unless confirmed by the Governor-General within six months of the date of their appointment.

Immigration.—Under the Immigration Act (No. 36) an alien will be a prohibited immigrant if he fails to satisfy an officer that he is the holder of a landing permit and that he is able to comply with its conditions or if he fails to satisfy the officer that his admission into Australia has been authorized by the Minister. Other provisions will enable the Minister or an authorized officer to issue a certificate of exemption authorizing a person, who, unless he possesses such a certificate, is liable to be prohibited from entering or remaining in the Commonwealth, to enter or remain in the Commonwealth. Power is conferred on the Minister to deport any person, not a British subject, who is convicted of a crime of violence against the person or of extorting any money or thing from any resident of the Commonwealth by force or threat or who is sentenced to imprisonment for one year or longer in respect of any other criminal offence.

Industrial Property.—The Patents, Trade Marks, Designs and Copyright (War Powers) Act (No. 32) makes minor amendments in the Patents, Trade Marks, Designs and Copyright (War Powers) Act, 1939, in consequence of the new definition of " enemy subject " inserted in the Trading with the Enemy Act, 1939.

Inscribed Stock and Treasury Bills.—The Commonwealth Inscribed Stock Act (No. 25) makes it an offence for any person to contravene or fail to comply with any term or condition on which a Treasury Bond, debenture or other prescribed security is issued or sold. The Act also exempts from Commonwealth income tax the interest derived from Treasury Bonds known as War Savings Certificates where it is declared in any prospectus relating to the raising of a loan by means of such Certificates that they will be free of Commonwealth income tax. The Treasury Bills Act (No. 93) prohibits the copying of treasury bills or the using of treasury bills as advertisements.

Judiciary.—The Judiciary Act (No. 50) enables the Right Honourable Sir John Greig Latham, Chief Justice of the High Court of Australia, to accept and hold the office of Envoy Extraordinary and Minister Plenipotentiary for the Commonwealth of Australia in Japan for the period of the war and twelve months thereafter. In the absence of the Chief Justice from Australia, the Senior Justice is to be designated Acting Chief Justice.

Motor Vehicles.—The Motor Vehicles Agreement Act (No. 31) authorizes the execution of an agreement between the Commonwealth and the Australian Consolidated Industries Limited with respect to the manufacture of motor vehicles. The Company undertakes to plan for the manufacture in Australia of twenty thousand engines and chassis annually. The Commonwealth gives an assurance that it will use its powers to safeguard the interests of the Company against the establishment of similar manufacture in Australia by foreign or foreign controlled companies, and that it will pay bounty in accordance with the Motor Vehicle Engine Bounty Act, 1939. The Commonwealth also gives an assurance that it will, during a period of five years, purchase from the Company a substantial proportion of vehicles required by Commonwealth Departments if the vehicles are satisfactory. Certain machinery to be used by the Company in the production of engines and chassis is to be imported free of customs duty.

National Security.—The National Security Act (No. 44) confers on the Governor-General power to make regulations " making provision for requiring persons to place themselves, their services and their property at the disposal of the Commonwealth, as appear to him to be necessary or expedient for securing the public safety, the defence of the Commonwealth, or the efficient prosecution of any war in which His Majesty is or may be engaged." This provision does not authorize the imposition of any form of compulsory service beyond the limits of Australia. The Act also enables regulations to be made to give effect to the International Convention relative to the Treatment of Prisoners of War.

Pensions.—The Seamen's War Pensions and Allowances Act (No. 60) makes provision for payment of pensions and gratuities in respect of Australian mariners who suffer death, disablement, detention or loss as a result of the war. The Invalid and Old-age Pensions Act (No. 97) provides for the review of pensions in accordance with the variation in the retail price index number, but so that the maximum rate is not reduced below £54 10s. 0d. per annum. The amount of pension allowable to inmates of asylums is increased by sixpence to 6s. 6d. per week. The pensions of these inmates are also adjustable.

Petroleum.—The Petroleum Oil Search Act (No. 22) amends the Petroleum Oil Search Acts, 1936, to enable the Minister to expend moneys for the purchase of drilling plant for use in connection with the search for petroleum and towards the cost of geological surveys or scout drilling operations conducted by the Commonwealth in conjunction with a State and also for the purpose of advances to persons engaged in the initial stages of the production of petroleum.

Post and Telegraph.—The Post and Telegraph Rates Act (No. 23) makes certain changes in the rates to be charged for telegrams while the Post and Telegraph Rates (Defence Forces) Act (No. 24) provides for reduced charges for mails and telegrams to and from members of the Naval, Military or Air Forces of the Commonwealth. The Post and Telegraph Rates (Defence Forces) Act (No. 2) (No. 94) extends the benefits of the Post and Telegraph Rates (Defence Forces) Act to representatives of organizations authorized to provide welfare services for members of the Forces.

Primary Producers Assistance.—The Rabbit Skins Export Charges Appropriation Act (No. 34) sets up an Australian Rabbit Skins Board to which shall be payable such amounts as are from time to time received by the Commonwealth under the Rabbit Skins Export Charges Act (No. 35). The latter Act imposes and levies a charge on all rabbit skins exported from the Commonwealth after a date to be fixed by Proclamation. The rate of charge is not to exceed ninepence for each pound of skins exported. Provision is made for exempting skins from the charge. The Apple and Pear (Appropriation) Act (No. 73) appropriates £750,000 for the repayment of moneys advanced by the Commonwealth Bank to the Commonwealth in connexion with the Apple and Pear Acquisition Scheme.

Public Service.—The Officers' Rights Declaration Act (No. 86) preserves the rights of Commonwealth Public Servants who may be appointed as arbitration inspectors. Under an amendment made by the Commonwealth Public Service Act (No. 88) the Administrator for the Northern Territory is to have all the powers, authorities and duties of a Chief Officer under the provisions of the Act so far as relates to the branches in the Northern Territory of any Department specified by Proclamation. This enactment is complementary to an amendment to the Northern Territory (Administration) Act, 1910-1939, effected by the Northern Territory (Administration) Act (No. 87) which repeals the provision under which the Minister may appoint officers.

Repatriation.—The Australian Soldiers' Repatriation Act (No. 37) extends to members of the Forces serving in the present war the provisions in the Australian Soldiers' Repatriation Act, 1920-1939, relating to the grant of pensions and benefits. The Australian Soldiers' Repatriation Act (No. 2) (No. 96) increases the rate of service pensions payable to ex-members of the Forces who are permanently unemployable or who are suffering from pulmonary tuberculosis.

Seat of Government.—The Seat of Government (Administration) Act (No. 14) inserts a provision in the Seat of Government (Administration) Act, 1910-1939, as to the notification in the Commonwealth Gazette of Ordinances of the Territory.

Sugar.—The Sugar Agreement Act (No. 21) approves an agreement between the Commonwealth and the State of Queensland in relation to sugar produced during the five seasons between 1941 and 1946. The Agreement provides for the acquisition by the State of Queensland of raw sugar manufactured in that State and for the purchase by the State of Queensland of raw sugar manufactured in New South Wales. The Queensland Government is to make sugar available to purchasers in the capital cities of the Commonwealth (including Launceston and Darwin) at stated prices for certain grades of sugar. Provision is made for rebates to the manufactured fruits industry in respect of Australian refined cane-sugar used in the industry. In conformity with an undertaking of the Commonwealth Government, the importation of sugar into the Commonwealth is prohibited.

Taxation.—(i) *Estate Duty:* The Estate Duty Assessment Act (No. 12) exempts from estate duty the estate of a person dying on active service where the value of the estate, after certain deductions have been made, does not exceed £5,000. A new provision in relation to statutory exemption is also inserted. The deduction is £2,000 where part of the estate passes to the widow, children or grandchildren of the deceased. This amount is decreased as the value of the estate rises. The deduction is £1,000 where no part passes to those persons. The Estate Duty Act (No. 13) prescribed new rates of estate duty varying from £3 per centum on estates not exceeding £10,000 in value to £20 per centum on estates the value of which is £500,000 or more.

(ii) *Gold Tax:* The Gold Tax Collection Act (No. 39) omits from the Gold Tax Collection Act, 1939, provisions requiring the Commonwealth to make refunds of gold tax to *bona fide* prospectors. Provisions regarding these refunds are now contained in the Gold Mining Encouragement Act (No. 38). The Gold Tax Collection Act (No. 2) (No. 95) provides that in any agreement relating to the sharing, distribution or disposal of the proceeds of the realization of gold, a reference to the proceeds is not to include a reference to that portion which is deducted for the payment of gold tax unless there is a provision to the contrary in the Agreement.

(iii) *Income Tax:* The amending Income Tax Assessment Act (No. 17) exempts from income tax the pay and allowances of members of the Naval, Military or Air

Forces enlisted for service outside Australia. The Act also makes provision with respect to a further tax on the undistributed incomes of companies. Another amending Income Tax Assessment Act (No. 2) (No. 65) relates principally to the collection of taxation by instalments. These instalments are to be deducted by employers from the wages of such of their employees who are liable to pay taxation. This Act also reduces the statutory exemption from £250 to £200. The Income Tax Act (No. 18) fixed the rates of income tax to be imposed in respect of income for the financial year beginning on July 1, 1940, but this Act was repealed by the Income Tax Act (No. 2) (No. 89) which imposed higher rates. The Income Tax Collection Act (No. 40) enlarges the power of the Commonwealth to enter into agreements with the States in respect of the collection by State officers of State tax payable by Commonwealth officers.

(iv) *Land Tax :* The Land Tax Assessment Act (No. 15) amends the Land Tax Assessment Act, 1910-1937, to make provision for the exemption from land tax of land owned and solely occupied by a friendly society. The Act also provides for a reduction in the unimproved value of land owned by a Mutual Life Assurance Society on which is erected a building partly used or occupied by persons other than the Society. The Land Tax Act (No. 16) increases the rates of land tax for the financial year beginning on July 1, 1940, and for each financial year thereafter.

(v) *Sales Tax :* The Sales Tax Acts (Nos. 1 to 9) (Nos. 3 to 11) increased the rates of sales tax from 6 per cent. to 8⅓ per cent. on May 3, 1940. Later Sales Tax Acts (Nos. 1A to 9A) (Nos. 77 to 85) imposed rates of sale tax varying from 5 per cent. to 15 per cent. on and from November 22, 1940. The Sales Tax Exemptions Act (No. 29) exempts from sales tax articles for official use by Trade Commissioners, Consuls and other representatives, and also goods purchased, imported, or manufactured by an organization not carried on for profit for donation to or for the use of members of the Defence Force of the Commonwealth. The Sales Tax Assessment Act (No. 1) (No. 30) and the Sales Tax Assessment Act (No. 1A) (No. 64) make minor amendments in the Sales Tax Assessment Act (No. 1), 1930-1936. The Sales Tax (Exemptions and Classifications) Act (No. 76) inserts two additional Schedules of goods in the Sales Tax Exemptions Act, 1935-1940. The Schedules classify the goods in such a way that a particular rate of tax is imposed according as to whether the goods are in one or other of those Schedules. A minor amendment in relation to penalties is made in the Sales Tax Procedure Act, 1934-1936, by the Sales Tax Procedure Act (No. 63).

(vi) *War-time (Company) Tax :* The War-time (Company) Tax Assessment Act (No. 90) relates to the imposition, assessment and collection of the war-time tax imposed on companies the profits of which exceed 8 per cent. by the War-time (Company) Tax Act (No. 91).

(vii) *Wheat Tax :* The Wheat Tax (War-time) Assessment Act (No. 68) relates to the assessment and collection of a tax upon wheat which is imposed by the Wheat Tax (War-time) Act (No. 69). The rate of tax per bushel of wheat is 50 per cent. of the amount by which the price per bushel exceeds 3s. 10d.

Territories.—The Northern Territory (Administration) Act 1910-1939 was amended by the Northern Territory (Administration) Act (No. 20) and the Northern Territory (Administration) Act (No. 2) (No. 87). By Act No. 20 Ordinances of the Territory will be sufficiently published if a notice of the making thereof appears in the *Commonwealth Gazette,* while Act No. 87 makes an amendment relating to the appointment of officers of the Territory. The Papua Act (No. 47) constitutes the office of Administrator in place of that of Lieutenant-Governor, and enables an Acting Administrator to be appointed. Changes in the constitution of the Executive Council are also effected and the Governor-General or the Minister or the Administrator, if the power is delegated to them, may appoint officers for the administration of the Territory.

Trade Agreement.—The Trade Agreement (Greece) Act (No. 28) approves an agreement between the Government of the Commonwealth and the Government of the Kingdom of Greece. The agreement provides that goods the produce or manufacture of Greece, on their importation into Australia, are to receive treatment not less favourable than that accorded to like goods the produce or manufacture of the most favoured foreign country, and similar treatment is to be afforded to goods the produce or manufacture of Australia on their importation into Greece.

Trading with the Enemy.—The Trading with the Enemy Act (No. 33) inserts a new definition of " enemy subject " in the Trading with the Enemy Act, 1939.

Waters.—The Morgan-Whyalla Waterworks Agreement Act (No. 75) ratifies and approves an agreement between the Commissioner of Waterworks of South Australia and the Commonwealth in respect of the construction of a pipe-line and other waterworks for the purpose of providing at Port Augusta, Whyalla and elsewhere in the Northern Areas of South Australia a supply of water drawn from the River Murray. The Commissioner is to construct the works and the Commonwealth to purchase water from the Commissioner subject to an annual minimum payment.

Wheat Industry.—The Wheat Industry (War-time Control) Act (No. 70) establishes a Wheat Industry (War-time) Stabilization Fund into which is to be paid all moneys collected under the Wheat Tax (War-time) Assessment Act, 1940. The moneys in the Fund are to be applied to pay compensation in respect of wheat acquired by the Commonwealth and in repaying to the Commonwealth Bank any advances made to the Commonwealth.

1941

SEVENTY Acts were passed during 1941. Many were concerned with taxation matters and the validation of customs and excise duties. A new form of Commonwealth taxation was introduced, namely, a duty on gifts. An Act of considerable importance from the point of view of social reform is the Child Endowment Act.

Advance to States.—Under the States Grants Act (No. 59), the following grants were made to the States in respect of the financial year 1941-42, viz.: South Australia, £1,150,000; Western Australia, £630,000; and Tasmania, £520,000.

Air Services.—The Empire Air Service (England to Australia) Act (No. 11) authorizes the execution of an agreement varying the Principal Agreement of 1938 in administrative details. These variations became necessary as a result of changes in the form of the administrative control of civil aviation in Australia.

Bounties.—The Raw Cotton Bounty Act (No. 9) increases the annual amount of bounty payable on raw cotton produced in any one year from £150,000 to £170,000. The payment of an additional amount of bounty is also authorized in certain cases where the average net return to the producer during 1941 and 1942 is or will be less than 12½d. per lb. of raw cotton. This provision for additional bounty is superseded by the Raw Cotton Bounty Act (No. 2) (Act No. 28), which increases the additional bounty payable to ensure that the average net return to a producer is or will be 15d. per pound of raw cotton produced during 1942 and subsequent years. The Cable and Wire Bounty Act (No. 29) provides for the payment of a bounty to the manufacturer of rubber-insulated cable or wire (other than cable or wire sold direct to the Commonwealth for defence purposes). The bounty is at the rate of 4d. for each pound of copper wire used, but the total amount of bounty payable in any one financial year is not to exceed £25,000. Provision is made in the Superphosphate Bounty Act (No. 65) for payment of a bounty of 25s. per ton on superphosphate produced in

Australia, containing not less than 22 per cent. of soluble phosphoric acid, which the manufacturer sells after July 1, 1941.

Child Endowment.—The Child Endowment Act (No. 8) provides for the payment of endowments, in respect of certain children, at the rate of 5s. per week for each child on and after July 1, 1941. The endowment may be granted to any person maintaining more than one child in respect of each child in excess of one maintained by him. In the case of children maintained by an institution, endowment may be granted to the institution in respect of all children maintained by it. A person claiming endowment must be in Australia when the claim is made and, if not born in Australia, must have had his usual place of residence there for twelve months immediately prior to the date when the claim is made. Also, the child, the subject of the claim, must be in Australia, and, if not born in Australia, must have resided therein for a similar period of twelve months. Endowment may be granted to an aboriginal native of Australia unless he is nomadic or the child for whom it is claimed is wholly or mainly dependent upon the Commonwealth or a State for his support. The endowment is payable to the mother of the child or, in special cases, to persons prescribed in Regulations under the Act. The endowment, which is absolutely inalienable, is required to be applied, by the person to whom it is paid, to the maintenance, training and advancement of the child or, in special cases, as prescribed.

Criminal Law.—The provisions of section 29B of the Crimes Act (No. 6) in regard to false representation are amended to extend to representations made in any manner whatsoever.

Customs.—The Customs Tariff (Southern Rhodesian Preference) (No. 13) which is complementary to the Trade Agreement (Southern Rhodesian) Act, imposes duties on certain tobacco the product of Southern Rhodesia and imported into Australia direct from that country. The Customs Tariff Validation (No. 17), the Customs Tariff (Exchange Adjustment) Validation Act (No. 18), the Customs Tariff (Special War Duty) Validation Act (No. 19), the Customs Tariff (Canadian Preference) Act (No. 20), and the Customs Tariff (New Zealand Preference) Validation Act (No. 21) validate the collection or adjustment of duties of Customs made on or before July 3, 1941. The validation of the collection or adjustment of certain other duties of Customs made on or before March 31, 1942, is provided for in the following Acts: Customs Tariff Validation Act (No. 2) (Act No. 42) ; Customs Tariff (Exchange Adjustment) Validation Act (No. 2) (Act. No. 43) ; Customs Tariff (Special War Duty) Act (No. 2) (Act No. 44), Customs Tariff (Canadian Preference) Validation Act (No. 2) (Act No. 45) ; Customs Tariff (New Zealand Preference) Validation Act (No. 2) (Act No. 46).

Defence.—Several amendments were made in the Defence Act (No. 4) to tighten up the provisions in relation to the supply of inferior food, materials, equipment and beasts to the Defence Forces. Prior to this Act, it was necessary to prove the act charged was done fraudulently. Now it is an offence for a person to supply inferior food, material, equipment or beasts unless he proves that he supplied them without intent to defraud and that he neither knew nor had reasonable means of knowing that the article, equipment, or beast was so inferior. Possession by contractors to the Commonwealth of certain goods marked or stamped without authority or certain dies, devices, seals or stamps is also made an offence. Where a contractor is a body corporate, the body and the directors or managers are guilty of these offences unless proof of certain facts is given. The Air Force Act (No. 12) extends the class of officers and airmen who are not subject to the Superannuation Act to those who have been appointed or enlisted for service during the time of war and any period thereafter.

Excise.—The Excise Tariff Validation (No. 47) validates collections of excise duties on or before March 31, 1942, under certain excise Tariff Proposals.

Health.—By the National Fitness Act (No. 26) the Governor-General is empowered to appoint a Commonwealth Council for National Fitness to advise the Minister with respect to the promotion of national fitness. A National Fitness Fund is established which may be applied to encourage the development of national fitness in the States and to promote physical education in schools, universities and other institutions.

Ministers of State.—The Ministers of State Act (No. 24) makes special provision for the war period regarding the number of Ministers. This number may exceed eleven but shall not exceed nineteen. The annual appropriation for the salaries of Ministers during the war period is increased to £21,250.

Oil Search.—The Petroleum Oil Search Act (No. 67) authorises the Minister to enter into agreements relating to advances from the Petroleum Oil Search Trust Account and take securities for the repayment of advances. The maximum advance is not to exceed £250,000 unless the Minister otherwise directs.

Pensions.—The Invalid and Old-Age Pensions Act (No. 48) qualifies Indians born in British India for old-age and invalid pensions. The limit of pension in any case has been increased to £58 10s. per annum. A pensioner is now permitted to have an annual income not exceeding £32 10s. without deduction from the pension. An increase of 9d. per week is made in the amount of pension payable to asylum and benevolent asylum inmates. The administration of the Invalid and Old-age Pensions Act, the Maternity Allowance Act and the Child Endowment Act are placed under the Director-General of Social Services. See also " Repatriation."

Posts and Telegraphs.—A war postage of one half-penny per postal article is fixed by the Post and Telegraph Rates Act (No. 54).

Primary Producers Assistance.—The Wine Grapes Charges Act (No. 16) clarifies the definition of " use in the manufacture of wine " in relation to grapes on which charges are payable. These grapes include those used in the manufacture of brandy or concentrated grape juice. Under the Berry Fruit-growers' Relief Act (No. 23) the Treasurer may make loans, not exceeding in the whole £20,000, to the State of Tasmania for the purpose of the alleviation by that State of hardship suffered by berry fruit-growers in consequence of damage to crops by frost or hail.

Public Service.—The Commonwealth Public Service Act (No. 5) authorizes the granting of leave to officers of the Public Service who, in time of war, are appointed to, or enlisted in, the Defence Forces of the Commonwealth, the United Kingdom or any other part of the King's dominions or to and officers who are permitted to engage in special war work.

Repatriation.—The fortnightly rate of service pensions are increased by the Australian Soldiers' Repatriation Act (No. 49) from 42s. to 47s. Service pensions are now grantable to South African War Veterans. The Act also extends the classes to whom benefits or assistance may be granted by Regulations. The War Services Homes Act (No. 1) extends the provisions of the War Service Homes Act, 1918-1937, to members of the Forces serving in the present war. The Act also makes it clear that members of the Air Force come within the scope of those provisions.

Statutes.—The Acts Interpretation Act (No. 7) enables the Governor-General to specify a Minister or Department in substitution for a Minister or Department specified in Acts where there is no longer any such Minister or Department. Another amendment permits a court to impose a pecuniary penalty on a body corporate guilty of an offence the prescribed penalty for which is a term of imprisonment only.

Taxation.—(i) *Estate Duty :* A new Schedule of rates of estate duty is prescribed by the Estate Duty Act (No. 51). The duty varies from £3 per cent. where the estate does not exceed £10,000, to £27 18s. per cent. where the value of the estate is £500,000 or more. The new rates apply to the estates of all persons dying on or after December 3, 1941.

(ii) *Gift Duty:* The Gift Duty Assessment Act (No. 52) provides for the imposition, assessment and collection of a duty on gifts. Gift duty is leviable and payable in respect of every gift made on or after the commencement of the Act (*i.e.*, October 29, 1941). In the case of gifts by a person domiciled in Australia or a body corporate incorporated in Australia or a Territory, the duty is payable on a gift of property wherever situated. In the case of gifts by any other person, the duty is payable on gifts of property which is situated in Australia at the time the gift is made. A gift means any disposition of property which is made otherwise than by will without adequate consideration in money or money's worth passing from the disponee to the disponor or with consideration which is not or which in the opinion of the Commissioner of Taxation is not fully adequate. The Act defines where property is deemed to be situated for the purposes of the Act. Several classes of gift are exempted from liability to gift duty including gifts to the Commonwealth or a State, moneys paid by an employer to an employee who is a member of the Defence Force for the purpose of augmenting the employee's pay as a member. The Gift Duty Act (No. 53) imposes gift duty at the rates set forth in the Schedule to the Act. The rates are calculated with reference to the " value of all gifts " made. This expression means the sum of the value of the gift in question and the value of all other gifts made within eighteen months previously or subsequently by the same donor to the same or any other donee. There is no duty where the value of all gifts does not exceed £500. The rate is £3 per cent. of the value of all gifts exceeding £500 but not exceeding £10,000, and this rate increases to £27 18s. per cent. where value of all gifts is £500,000 or more.

(iii) *Income Tax:* The Income Tax Act (No. 55) is the usual taxing Act for the financial year 1941-42. Increased rates of income tax are imposed in the case of taxable incomes over £1,500 from personal exertion and over £1,200 in the case of income from property. The rate of tax payable by a company was increased by the Income Tax Act (No. 2) (Act No. 68) from 36d. to 48d.

The Income Tax Assessment Act, 1936-1940 was amended generally by the Income Tax Assessment Act (No. 58). The amendments include the following: The extension of exemptions from income tax to include certain additional repatriation benefits and child endowment payments ; the discontinuance of the exemption hitherto allowed to resident shareholders on dividends paid by companies out of exempted ex-Australian profits ; the repeal of the provision relating to Commonwealth loan interest included in dividends to shareholders ; the inclusion of special provision to meet cases where income producing assets are transferred by a taxpayer to his wife ; the concessional deductions for children in respect of whom child development is payable has been excluded ; the deduction of amounts paid as calls to mining companies in arriving at taxable income is discontinued and in its place a rebate of tax is allowed which is calculated on the amount of the calls at one-third of the rate of tax payable on the taxpayer's taxable income ; and provision is also made for an abatement of tax where the Commonwealth and States taxes exceed 18s. in the £1. See also s. (vii) hereunder (War Tax) for Income Tax Assessment Act (No. 2) (Act No. 69).

(iv) *Land Tax:* An additional tax is imposed on land by the Land Tax Act (No. 50). Where the taxable value of land exceeds £20,000, a super tax is payable equal to 20 per cent. of the amount of land tax or 1 per cent. of the amount of the excess of the taxable value of the land over £20,000, whichever is the lesser amount. The super tax is applicable to assessments for the financial year commencing on July 1, 1941, and for each financial year thereafter.

(v) *Pay-roll Tax:* The Pay-roll Tax Assessment Act (No. 2) relates to the imposition, assessment and collection of a tax upon the payment of wages. The tax is imposed by the Pay-roll Tax Act (No. 3), and is at the rate of £2 10s. per cent. The tax is to be levied and paid on all wages paid or payable by any employer, in respect of any period of time occurring after June 31, 1941, who pays or is liable to pay the wages. In ascertaining the tax payable, an amount of £20 per week is excluded from the wages. Wages payable by certain persons and bodies such as religious or public benefit institutions and public hospitals are exempt from the tax. Refunds or rebates are payable where the annual amount of wages paid does not exceed £1,040 or a proportionate amount of £1,040 where the taxpayer is an employer for part of the year only. Employers are required to lodge returns of wages paid and to pay tax within seven days after the close of each month.

(vi) *Sales Tax:* Further provisions in regard to exemptions from, and classification for the purposes of, sales tax are contained in the Sales Tax (Exemptions and Classifications) Act (No. 32). Exemptions now include pumping and other machinery for use in agricultural industry ; water bore casings and water boring plant and equipment ; surgical appliances ; maps for use in universities and schools ; uniform and equipment for members of certain Women's Organizations associated with the Defence Forces ; goods for use exclusively in air raid precautions services by public authorities ; and producer gas units for use in the production of fuel for land transport vehicles, including tractors. The following classifications have been added for the purposes of sales tax imposed on the sale value of certain goods, namely:—Division xi.: Cooking, heating and warming appliances, laundry irons, electric fans and similar goods ; Division xii: Floor coverings ; and Division xiii: Miscellaneous. On or after October 30, 1941, sales tax is increased to 5 per cent. in respect of goods covered by the Second Schedule to the Sales Tax (Exemptions and Classifications) Act, 1935-1941 ; to 20 per cent. in respect of goods covered by the Third Schedule ; and to 10 per cent. in respect of goods not covered by either of those Schedules and on the sale value of which it is not provided by that Act that sales tax shall not be payable (see Sales Tax Acts Nos. 1 to 9) (Acts Nos. 33 to 41).

(vii) *War Tax:* The War Tax Act (No. 70) imposes a tax on the war tax income derived by every person (other than a company) whose war tax income exceeds £156, or, in the case of a member of the Defence Force, having a war tax income which includes pay and allowances earned by him as a member of that Force, exceeds £200. War tax income is ascertainable in accordance with the Income Tax Assessment Act (No. 2) (Act No. 69). From the assessable income of a taxpayer, the following are deducted: (*a*) certain allowable deductions ; (*b*) rates and Federal and State land tax for which the taxpayer is personally liable ; and (*c*) any income tax payable under the Income Tax Assessment Act in respect of the year of income. In ascertaining the war tax payable, a rebate of £2 12s. is allowable, where the taxpayer is resident, in respect of his spouse, each child under sixteen years of age and his mother, if, in each case, the person is a resident and wholly maintained by the taxpayer. All the provisions of the Income Tax Assessment Act are applicable, with necessary modifications, to war tax. The rates of war tax vary from 6d. on every pound of war tax income if that income exceeds £156 but does not exceed £162 to 1s. on every pound if the income exceeds £300.

(viii) *War-time (Company) Tax:* The War-time (Company) Assessment Act (No. 56) re-defines " income tax " as meaning income tax imposed as such by any Act but as not including super tax or tax assessed under Part IIIA of the Income Tax Assessment Act. The statutory percentage is decreased from 8 per cent. to 5 per cent. The duration of Act is expressed to be for six months after the end of the financial year during which the present war termintes. The rate of tax is increased by the War-time (Company) Act (No. 57) from 4 per cent. to 6 per cent. A new schedule of rates of tax is also prescribed. Where the excess is more than 1 per cent. of the capital employed but not more than 2 per cent., the percentage of portion of excess to capital employed is 1 per cent., the rate of tax on portion of this excess is 6 per cent. and the rate on the remainder of the excess is 12 per cent. These percentages increase until, in the case where the excess is more than 12 per cent. of the capital employed, the prescribed percentages are 12, 39 and 78, respectively.

Trade and Commerce.—The Trade Agreement (Southern Rhodesia) Act (No. 10) approves an agreement between the Commonwealth Government and the Government of Southern Rhodesia in relation to tariff concessions. Goods the produce or manufacture of Australia which are to be admitted into Southern Rhodesia free of duty include butter, gelatine, glue, hops, seeds, bags, dairy utensils and machinery, fencing materials and iron and steel. Unmanufactured tobacco the produce of Southern Rhodesia, on importation into Australia, is to be accorded a preferential rate of 9d. per lb. lower than the rate payable under the British Preferential Tariff. Concessions are also granted in respect of Southern Rhodesian raw asbestos and chrome ore.

2. NEW SOUTH WALES

1939

Apprentices (War Service),—No. 35, which applies both to indentured and trainee apprentices, provides that where an indentured apprentice or trainee apprentice is absent from his usual employment on war service for more than one week his contract shall be suspended during such period of absence. In cases of absence on war service not exceeding four months the contract of apprenticeship immediately revives after such period, and the period of absence is added to the term of the apprenticeship under the indenture. If the absence exceeds four months and the apprentice, at the termination of such period, desires to continue his training, he is required to make application to the Industrial Registrar within two months of the termination of his war service. The Registrar will refer the application to the Apprenticeship Council, which is required to order that the contract of apprenticeship shall be revived and to determine the date of revival. The Council is empowered to vary the provisions of the contract of apprenticeship in such manner and to such extent as it may deem just and equitable. An apprentice with war service is given absolute preference over an apprentice engaged during the former's absence, and is entitled to resume employment unless the master proves to the satisfaction of the Apprenticeship Council that he no longer possesses the facilities for the proper training of apprentices or the requisite number of journeymen to warrant the re-employment of the apprentice. If the apprentice fails to make the requisite application, the Apprenticeship Council may, on the application of the master, cancel the contract of apprenticeship, or may refuse cancellation if it is satisfied that such failure was occasioned by mistake, absence from the State, or other reasonable cause.

The Act further provides that subject to any award made after its commencement, the master may, subject to the approval of the Apprenticeship Council, employ another apprentice in place of the apprentice on war service. The foregoing provisions apply *mutatis mutandis* in respect of trainee apprentices, with the exception that if the absence on war service does not exceed four months, notice is to be given within two weeks of the termination of the war service. This particular provision is inserted in view of the fact that a trainee apprentice does not serve under a written contract.

Child Welfare.—No. 17 provides generally for the protection of child life, and for greater supervision over lying-in homes, in which children are born, and over places established or used for the reception and maintenance of children under the age of seven years. Day nurseries and kindergartens are added to the list of places which have to be licensed and which are required to keep appropriate records. All children engaged in trading in the streets have to be licensed by the State, and the minimum age to which a child may be permitted to engage in such occupation is raised from 12 to 15 years. In special circumstances a child may be licensed at 14 years. Children employed in places of amusement and entertainment have also to be licensed, and are subject to supervision in the interests of their health and general welfare. Broadcasting houses, film studios, and all places of amusement and entertainment, whether open to the public or not, are covered by this provision. No child can now be employed as an acrobat, or contortionist, or in a circus. The section dealing with affiliation proceedings protects the legal rights of illegitimate children, and ensures that those responsible for the birth of such children pay for the expenses of their maintenance, the confinement expenses of the mother, and, if necessary, for the burial expenses of the mother or the child. The provisions of the principal Act have been enlarged considerably so as to give greater protection to all parties concerned. A woman, for example, need not now produce corroboration of her complaint before she can procure the issue of process, although she must still do so at the hearing of her complaint. She can go back to the court and make a further complaint if she can secure fresh evidence. A man can now apply for an annulment of an order in certain circumstances, and also for a blood test in his endeavour to disprove paternity.

The age at which a person can be adopted has been raised from 16 to 21 years, and the courts are given the power to reverse an order of adoption. The Act makes provision for the maintenance of children in their own homes in cases where their people become destitute owing to any of the circumstances set out in Section 27 of the Act. The age up to which an allowance may be granted is raised from 16 to 18 years, and an allowance can now be made to a father as well as to a mother or to a single woman. Wards of the State may be boarded-out to certain charitable organizations in certain cases. For those wards of the State who are mentally defective, and who are unable to adjust themselves to the needs of the community, provision will be made in special homes and colonies, where they can live, work (if possible) and associate with persons of their own mental ages. The Act prohibits the use of such terms as "conviction," "sentence," and "imprisonment" in connection with juvenile offenders who are dealt with in a summary manner; raises the age of incapacity for doing wrong from seven to eight years; and abolishes the death penalty where the offence was committed before the constitution and establishment of institutions for juvenile offenders, and the regulation of punishment that might be ordered and inflicted on the inmates of such institutions.

Section 94 seeks to prevent any unnecessary detention of a person under the age of 21 years in a prison or other place of detention, and power is given for the transfer of such persons to a State institution for the training of juvenile offenders. There is provision for the making of contribution orders against near relatives for the payment of the expenses of the maintenance of all children who become wards, or who have been committed by a court into the care of some person.

Conveyancing (Amendment).—No. 18 provides that mortgages of land of the class specified are not bills of sale and are not subject to avoidance or invalidity if not registered under the Bills of Sale Act of 1898 or the Companies (Registration of Securities) Act, 1918, or Part IX of the Companies Act, 1936. S. 109 (1) (e) of the Conveyancing Act, 1919, provides that a mortgagee, where the mortgage is made by deed shall, by virtue of the Act have: "power to sever and sell fixtures apart from the balance of the mortgaged property." This imports a power to seize personal chattels as security for a debt and, but for the amendment made by this Act, a mortgage would require to be registered as a bill of sale or under the provisions of the above-mentioned Acts. It is made clear that such registration is not now necessary for the class of mortgage mentioned.

Drainage.—No. 29 repeals the Water (Costs Declaration and Flood Prevention) Act, 1924, and amends the Water Act, 1912-36. The measure makes better provision for the drainage of swamp lands, the mitigation of the effect of floods, and the control of flood waters ; facilitates the administration of drainage unions and drainage trusts ; and, as far as practicable, sets up a uniform system of administration and rating for both drainage unions and drainage trusts. Existing unions and trusts are deemed to have been constituted under the Act. Management of a union or trust is vested in a board of directors, a body corporate, the general powers and duties of which include maintenance and extension of works, and levying and collection of rates. Rates are to be based on an assessment of increased value accruing to each portion of land within a drainage district, and valuations are to be made at least every three years. Rates are to remain a charge on the land in respect of which they are levied, and are to be increased by 5 per cent. per annum if unpaid after three months from due date.

Fair Rents.—No. 37, which binds the Crown, applies to dwellinghouses let at a rent not exceeding £3 10s. per week, and to shops let at a rent not exceeding £6 per week. It does not apply to premises licensed under the Liquor Act ; registered clubs ; dwelling-houses leased for summer residence ; dwelling-houses with which are occupied areas greater than one-half acre ; or buildings erected on agricultural land as defined in the Agricultural Lessees Relief Act, 1931. The rent payable for a dwelling-house or shop on August 31, 1939, shall be the rent payable after the commencement of the Act and until a court, upon application for the purpose, makes a determination of the fair rent.

In making a determination, the court shall first ascertain the capital value of the dwelling-house or shop as at the time of the receipt of the application. Capital value is defined as the capital sum which the fee-simple of the building and land might be expected to realize if offered for sale on such reasonable terms and conditions as a *bona fide* seller would require. The fair rent is determined at a rate of one and one-half per cent. above the average rate of interest on first mortgages on urban securities (this rate being calculated by the Government Statistician from particulars of such mortgages in the Registrar-General's Office) on the capital value of the dwelling-house or shop, plus the following: Annual rates: the amount estimated to be required annually for repairs (including painting), maintenance, and renewal ; insurance on any buildings ; an amount estimated to be the annual depreciation in value of the buildings, if such depreciation diminishes their letting value ; and such amount (if any) as the court may deem proper to be allowed for the estimated time per year when the dwelling-house or shop may be untenanted. There are provisions for enforcing a determination of the court for preventing the charging of a higher rental while a determination is in force, and for preventing the victimization of a lessee by reason of his having approached the court.

A person who refuses to let a dwelling-house to a respectable applicant, and whose refusal is due to the fact that the applicant has a child or children, is liable to a penalty not exceeding £50. Every decision, determination, and order of the court shall be final, though the court may state a special case for the opinion of the Supreme Court on any question of law. No costs are to be allowed in any proceeding under the Act.

Industrial Arbitration.—No. 4 empowers the Industrial Commission to fix the price of any commodity, after investigation following a reference by the Minister for Labour and Industry, if it is satisfied that the following conditions co-exist: That there is a monopoly or contract, agreement, understanding, or arrangement between traders ; that such results in regulation or control of prices ; that the price is excessive in consequence ; and that the Commission is satisfied it is expedient and desirable in the interests of the public to fix the price. The investigation and fixation of a price may be carried out by a single member of the Commission in the first place, but an appeal lies to the full Commission constituted of three members, but not to include the member who conducted the inquiry. The notice fixing a price remains in operation until it is replaced or revoked by the Commission in consequence of an appeal or of a further investigation. The appeal may be lodged by any person, including the Minister, who objects to the fixation of the price or of the amount so fixed. The Act directs the Commission to fix the price of bricks within seven days, and authorizes it to make use of the services of the Auditor-General and the Government Statistician as assessors to assist any investigation or appeal, and also in the fixation of the price of bricks.

Income Tax.—No. 25 replaces the Income Tax Act, 1936, while No. 26 amends the Income Tax (Management) Act, 1936. The rates of tax are increased by approximately 8 per cent. in the case of individuals. In addition, a super tax of 1s. in the £ is levied on the part of the income of individuals in excess of £2,000, irrespective of the class of income. The company rate of tax is increased from 2s. 3d. to 2s. 6d. in the £, representing an increase of approximately 11 per cent. The rates are to apply for one year only.

The only alteration effected by the amendment of the Income Tax (Management) Act, 1936, is in respect of rebates of tax allowable to shareholders upon dividends included in their assessments.

Landlord and Tenant.—No. 39 extends the period during which the provisions of Parts II and III of the Landlord and Tenant (Amendment) Act, 1932-1938, shall have effect. Part II of the principal Act contains provisions relating to ejectment postponements, which allow the court to grant extended time up to three months to tenants in impoverished circumstances to vacate premises where an ejectment order is made against them.

Libraries.—No. 40 amends the Local Government Act and the Sydney Corporation Act. Municipal and shire councils are given wider and better defined powers to conduct libraries than they had previously, and provision is made for the payment of subsidies to councils prepared to establish libraries. Councils may co-operate in order to improve library services over adjacent areas. The Act provides for the appointment of a Board to advise on the allocation of the subsidy, and to assist councils in schemes of co-operation so that the library resources of the State, including those of the Public Library of New South Wales, can be used for the common benefit. So far as local government areas are concerned the Act is permissive and not compulsory, and councils may apply its provisions by resolution on their own initiative, or following a poll of electors.

Local Government.—No. 33 amends the Local Government Act, 1919, to enable county districts and county councils to be constituted for the purpose of the supply of water or electricity in bulk only, while retaining to the constituent councils the function of reticulation.

The principal Act of 1919 is amended by No. 41 by prolonging for a further period of one year the provisions introduced into the Act by the Local Government (Further Amendment) Act, 1935, and which facilitated the carrying out of certain public works, in the nature of local services, by councils with financial assistance from the Government. Land which is not rateable is not to become liable to rating by reason of the fact only that the land or a building thereon is used for purposes of a patriotic nature relating to the present war, unless a rent or other profit accrues to the owner. Councils are empowered to expend their funds to promote or assist recruiting for military service, or to promote the training of persons for emergency services during time of war. Councils may also pay to their servants who are members of the Defence Forces of the Commonwealth or of any National Emergency Service the difference between Council and military pay. Occupiers of lands within an irrigation area are required to destroy noxious plants on roads, public reserves, and channel lands which intersect or abound their land, up to a distance of one chain.

Main Roads.—No. 42 makes amendments to those sections of the Main Roads Act, 1924-38, dealing with the disbursement of revenue derived from the taxation of motor vehicles which became necessary following the Government's decision to increase motor vehicle taxation as from December 1st, 1939, by an all round 12½ per cent.

Medical Practitioners.—The 1938 Act provided that any person who was registered on and after January 1st, 1941, should not be entitled to practise his profession unless and until he had served as a medical officer in an approved hospital, or hospitals, for a period of twelve months or periods aggregating twelve months. The amending Act (No. 5) excludes from the application of this provision any person registered before January 1st, 1941. Another amendment preserves the rights under the 1912-15 Act of students from foreign countries, at the University of Sydney, who commenced their studies before the 1938 Act was passed, insofar as the provisions of the 1938 Act relate to reciprocity of registration between countries and the restriction on the number of students which may be registered.

One provision sets out that any area in New South Wales where the residents are not adequately provided for in respect of medical and/or surgical services may be proclaimed a region. Any person who has completed a recognized course of medical study and obtained a degree although not otherwise entitled to registration as a medical practitioner for the State of New South Wales, may be issued with a certificate of regional registration in respect of a proclaimed area. The certificate allows him to carry out all the duties of a registered medical practitioner for that proclaimed area only, but practice outside that area, unless approved by the Minister, may result in the cancellation of the certificate. Any person who has held a certificate of regional registration for a period or periods aggregating five years or more, becomes entitled to full registration for the State, subject, however, to compliance with the restriction contained in the 1938 Act that the Board shall not, in any one year, grant the applications of more than eight persons who are not natural born British subjects.

Mental Defectives.—No. 19 authorizes the provision of separate institutions, apart from the prisons, for the care and treatment of persons convicted of any offence in respect of which a penalty of death or imprisonment for a term of two years or upwards may be imposed, or of wilful and obscene exposure of the person, and who are mentally defective. A mentally defective person is defined as a person not being insane within the meaning of the Lunacy Act but in whom there exists mental defectiveness so pronounced that he requires supervision and control for his own protection or for the protection of others. When such a person is sentenced the court is required to report the case to the Minister forthwith. The Governor or officer in charge of any gaol is required to inform the visiting surgeon if it appears to him that the person sentenced for any of the offences mentioned is mentally defective. Provision is made for medical reports to be furnished to the Minister, who may then direct that such person be brought before a magistrate for inquiry as to his condition. The prisoner has the right to be heard at such inquiry, which may be held in camera if considered desirable. The court may order that the prisoner be detained in an institution during the Governor's pleasure. The prisoner may appeal from the magistrate's decision to the Court of Quarter Sessions, and from that court to the Supreme Court.

The prisoner may be released when evidence is furnished that it is no longer necessary that he should be detained, or when a suitable person is prepared to undertake the custody and care of the patient. The patient may be arrested if any condition of his release is not complied with.

Monopolies.—No. 6 takes away from the defendant in any proceedings for an offence under the principal Act, other than an indictable offence, the right to refuse to answer questions and to produce books of accounts, minutes of meetings, balance-sheets, and profit and loss accounts, on the ground that it might expose him to a penalty. His answer shall not be admissible in evidence against him in any civil or criminal proceedings other than the proceedings for offences against the Act. In all proceedings in which a contravention of the Act is alleged, minutes, notes, or memoranda of proceedings of persons alleged to have been parties of the combination, are made admissible against them, and books, letters or documents, etc., in reference to the offence, if obtained from the custody of a person charged, shall be admitted against him.

This legislation was the outcome of a finding by Mr. Justice de Baun, who inquired into the activities of brick companies, that certain firms and corporations which were members of the Council of Brick Manufacturers, were guilty of combining to monopolize the trade in bricks so as to control the price to the detriment of the public. Much of the material on which the findings were based would be inadmissible as evidence in a prosecution under the Monopolies Act, 1923, which excused a defendant from answering questions or producing records which might expose him to penalties.

Parliamentary Evidence.—No. 8 amends the principal Act of 1901 by making the provision in relation to the summoning, attendance, and examination of witnesses before either House of Parliament or any Committee thereof applicable to proceedings before a Joint Committee of both Houses, as well as to proceedings before a separate Committee of either House.

Rural Reconstruction.—No. 45 makes provision for the reconstitution of the Farmers' Relief Board by increasing the membership from three to five, the new members to be representative of the Treasury and the Lands Department. The Director of the Board is to be appointed by the Government, whereas under the Farmers' Relief Act the Director was a Commissioner of the Rural Bank. The Act makes it possible for debts adjustment to be applied for and obtained without resort necessarily to the procedure of a Stay Order. The Board is given power to write down and adjust Crown debts on a very wide basis, while the Rural Bank is authorized to waive or remit certain moneys upon the recommendation of the Board.

Taxation.—The two management Acts Nos. 11 and 13 replace the Special Income and Wages Tax (Management) Act, 1936-1938, whilst the two taxing Acts (Nos. 12 and 14) replace the Special Income and Wages Tax Act, 1938. The proceeds of the Special Income and Wages Tax were paid into Consolidated Revenue. Under the new Acts, Unemployment Relief Tax is paid into the Unemployment Relief Fund and Social Services Tax is paid into the Social Services Fund.

Under the Special Income and Wages Tax (Management) Act, 1936-1938, wages of £3 per week or less, and other classes of incomes of £156 or less were exempt in the hands of persons who did not maintain a dependant (a wife, or a child under the age of sixteen years). Persons with a dependant were exempt if the weekly wages were less than £4 4s., or, in the case of other incomes, if the annual income was less than £219. Under the amending management Acts weekly wages of £2 per week and over and other classes of income in excess of £100 per annum are liable to tax in the hands of persons without dependants. The exemption for persons with dependants remains unaltered. The management Acts also slightly extend the provisions relating to the deduction of tax at the source. Persons who, strictly speaking, are not employees may, by arrangement, have tax deducted at the source from their emoluments of office. Any such arrangement is purely voluntary.

The Social Services Tax Act (No. 12) and the Unemployment Relief Tax Act (No. 14) fix the rates and amounts of tax payable upon wages paid on and after October 1, 1939, and payable upon other incomes for the year ended June 30, 1939. The rates and amounts of tax set out in the two measures are identical. The Unemployment Relief Tax Act, however, provides that the amounts of tax payable under that Act shall be reduced by one-third, whilst the Social Services Tax Act provides that the amounts of tax payable under that Act shall be reduced by two-thirds. The object of these provisions is to enable the two taxes to be collected as one, thus saving additional work and expenditure to employers and to the Department. The combined tax is, under the taxing Acts, allocated as to two-thirds to the Unemployment Relief Fund and as to one-third to the Social Services Fund. The taxes payable under these Acts are higher than those under the Special Income and Wages Tax Act previously in force.

The Social Services Tax (Management) Act provides that the Social Services Fund shall be credited with the proceeds of the Social Services Tax ; moneys authorized or directed to be paid to the Fund ; and advances or payments made to the fund by the Colonial Treasurer.

Stamp Duties (Amendment).—No. 30. There are new schedules of rates for both local and foreign domiciled deceased persons. The schedule (seventh) applicable to the former group provides for the first time in New South Wales for varying rates according to the degree of kinship, if any, which the beneficiary bears to the deceased. A special rate is provided in the third column of the schedule for bequests to hospitals, for the relief of poverty, or for the promotion of education in New South Wales. These rates are identical with those provided in the fourth schedule of the Stamp Duties Act, 1902-1938. The new rates represent increases ranging from 1 per centum to 2 per centum for the classes of beneficiaries named in the first column, with uniform additions of two per centum and five per centum on the portions of the estate passing to persons classified in the second and fourth columns. There is no alteration in the general exemption of estates under £500 or the conditional exemption of estates up to £1,000. The new rates applicable to estates of foreign domiciles are in the eighth schedule. These rates represent increases ranging from 5 per centum to 7 per centum on the old rates. Different rates are provided for bequests to hospitals, etc.

An innovation in both Sections 101D and 101E is provision to the effect that where the final balance of an estate slightly exceeds a rating grade, the increased amount of death duty payable is not to exceed the amount payable at the next lower rate plus the margin representing the excess. Thus an estate with a final balance of £5,005 would be taxed at the rate applicable to the £4,000-£5,000 grade plus the £5.

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Aborigines Protection.—The former Board for the protection of aborigines is dissolved and the Aborigines Welfare Board constituted. No. 12 also creates the position of Superintendent of Aborigines Welfare, who is made a member of the Board, and places the whole of the staff of the Board under the control of the Public Service Board. The powers of the Board are extended so that it will be in a better position to deal with such matters as the removal of aborigines living under undesirable circumstances to Reserves, the control of neglected aboriginal children, and the apprenticeship and employment of aboriginal children and their control.

Administration of Justice.—No. 11 amends the Supreme Court and Circuit Courts Act, 1900-1935, and enables the number of Puisne Judges to be increased from eight to ten without the necessity of obtaining resolutions of both Houses of Parliament. For the purpose of computing the pension payable to a Judge of the Supreme Court on retirement, any periods of acting service prior to permanent appointment will now be taken into account as in the case of a District Court Judge. Provision is made for the Judge of the Land and Valuation Court, who is frequently called upon to assist in the Supreme Court, to be a permanent Judge of that court. It is made compulsory for the Master in Equity to retire on attaining the age of 70 years, and his pension, as also that of the Prothonotary of the Supreme Court, will be calculated on the same basis in relation to salary, as pensions payable to Supreme Court and District Court Judges.

Attachment of Wages.—No. 44 provides chiefly that wages or salary under three pounds per week, and wages of rationed relief workers, shall not be attached.

Companies.—No. 56 provides for a company incorporated in any part of His Majesty's Dominions outside New South Wales to be registered and incorporated under the Companies Act, 1936, subject to compliance with certain requirements. The new provisions follow generally the lines of Part V of the principal Act (which deals with the registration of companies not formed under the Act), but one difference is that incorporation under the Act is not to affect the continuity of the company nor its property, powers, rights, authorities, duties, functions, liabilities or obligations.

Dairy Industry.—No. 31 provides for the issue of two licences—one for the manufacture of table margarine, and one for the manufacture of cooking margarine. The general definition of margarine is any substance which resembles butter and is manufactured or prepared wholly or mainly from one or more or a combination of fats or (and) oils, the fatty contents of which are not derived exclusively from milk, but does not include dripping or lard or any single fat sold as such. Cooking margarine means margarine which contains not less than 90 per cent. of beef fat or mutton fat or of both combined. All other margarine is table margarine. A person holding a cooking margarine licence may manufacture for sale only to any prescribed person or class of persons in lumps of not less than 14 lbs. margarine which contains beef fat or mutton fat or beef fat and mutton fat of between 75 and 90 per cent. The total quantity of table margarine manufactured in any year is not to exceed 1,248 tons and each licence is to set out the maximum quantity to be manufactured by the holder. Special permits may be granted by the Minister to a manufacturer to prepare quantities of table margarine for export beyond the Commonwealth of Australia.

Defamation.—No. 4 ensures that the privilege afforded by Division 1 of Part IV of the Defamation Act, 1912, shall extend to debates and proceedings in the Legislative Assembly and the Legislative Council. Both Houses shall be deemed to have authorized the Government Printer to publish the reports of the debates and proceedings.

Evidence.—No. 8 enables the attestation or verification by, or signature or acknowledgment before, a Justice of the Peace of any documents under any Act in any part of His Majesty's Dominions outside New South Wales.

Government Guarantees.—No. 15 enlarges slightly the class of cases in which the Colonial Treasurer is authorized to execute guarantees by providing that guarantees may be executed in respect of past indebtedness of hospitals. The measure also removed the restriction imposed by paragraph (c) of s. 4 of the Government Guarantees Act, so that in case of default on the part of a hospital in the payment of the principal sum or other moneys owing, recourse may be had against the Colonial Treasurer. Formerly, a lending institution was required to exercise its powers against the property of a hospital before calling upon the Colonial Treasurer for payment.

Horse Breeding.—No. 58 provides for the registration of stallions. In the first three years of the operation of the Act a permit may be issued for an owner to keep a stallion for breeding purposes on his own property and in respect of his own stock only. All stallions in respect of which application has been made for registration must be submitted for examination by a veterinary officer at parades to be held at specified times and places. The right of appeal, to a Board selected from a panel of referees, against a refusal to register, is provided for.

Income Tax.—No. 34 extends to cover the three years ending June 30, 1942, the provisions in the principal Act for the exemption of income derived prior to July 1, 1939, from the working of a mining property in Australia or in the Territories of Papua and New Guinea, principally for the purpose of obtaining gold, provided that the value of the output of gold is not less than 40 per cent. of the total value of the output of the mine. It extends also for a further three years—to 1942—an exemption in respect of dividends declared wholly and exclusively out of income of the class mentioned, provided the dividends were paid before July 1, 1939.

The pay and allowances of members of the Forces of the Commonwealth, or any other part of the Empire, or of an ally of Great Britain, who have enlisted, or have been appointed to such Forces, for service outside Australia during the present war, are exempted from Income Tax, provided that at any time from September 3, 1939, to a date twelve months after the close of the year of income concerned such member has: (*a*) in the case of the Naval Forces—served in a seagoing ship ; (*b*) in the case of the Military or Air Forces—embarked for service outside Australia. This exemption is similar to that granted by the Commonwealth for Federal Income Tax purposes and continues until twelve months after the cessation of the war. Deductions are made allowable in respect of gifts and contributions to a public institution or public fund established and maintained for the comfort, recreation, or welfare of members of the Naval, Military or Air Forces of the Commonwealth, and to the Commonwealth, when made for purposes of defence.

A loss upon assignment or surrender of a lease of a publican's licence or Australian wine licence, which previously was not deductible, has been made an allowable deduction, but only from a profit made upon the assignment or surrender of a lease. Leases other than publicans' or Australian wine licences only come within this provision if acquired within six years prior to year of income. Casual profits arising from the sale of shares and securities, which previously were taxable only where the sale was made in New South Wales, are now made taxable in the hands of a resident of New South Wales if the sale is effected outside the State (but in Australia) and provided the taxpayer is not liable to State Income Tax of the State in which the sale took place. A similar amendment in regard to shares and securities, has been made to the provision for taxing proceeds of sale of rights to take up shares.

A more simple method of collection of tax in respect of premiums on re-insurances effected by persons carrying on the business of insurance in the State with companies carrying on a similar business outside Australia is provided for in s. 191, which has been recast. This sets out that the premiums paid or credited in respect of any re-insurance risk effected with another person carrying on a business of insurance, but not in Australia, shall not be an allowable deduction to the person carrying on the business of insurance in this State ; or included in the assessable income of the person carrying on the business of insurance out of Australia ; and that the income of the person carrying on the business of insurance in New South Wales shall not include sums recovered from the ex-Australian business in respect of a loss on any risk so re-insured. The altered provision is made retrospective to the date from which the original Act applied, *i.e.*, July 1, 1935.

No. 52 amends the principal Act by inserting a new section empowering the State to enter into an agreement with the Commonwealth for the collection of Federal Income Tax by instalments pursuant to the provisions of the recent Commonwealth legislation in this regard.

No. 35 fixes the rates of tax in respect of income derived during the year of income ended June 30, 1940, on the same scale as those which applied to income derived during the year ended June 30, 1939, with the exception that it deletes the provision relative to the payment of a minimum amount of 10s. tax.

Industrial Arbitration.—No. 2 consolidates the various Acts relating to industrial arbitration.

Justices.—No. 6 amends the Justices Act, 1902, as follows : Allows magistrates to hear two or more cases together by consent ; provides that costs be paid to the Clerk of the Court; fixes twelve months as the maximum default imprisonment for non-payment of a fine; enables security for payment of a fine to be given after committal to prison; clarifies the power of the Attorney-General to change the venue of a Quarter Sessions Appeal and enables a Chairman of Quarter Sessions to postpone the hearing of an appeal to later sittings; extends the power to take recognizances of bail to first-class constables in charge of police stations; repeals the Justices (Fees) Act and incorporates its provisions in the Justices Act, 1902; excludes the Lord Mayor of Sydney from the section conferring jurisdiction in the Metropolitan Police District; and requires depositions in summary proceedings to be read.

Legal Practitioners.—No. 38 provides for exemption of solicitors who are on war service from the necessity of taking out an annual practising certificate and paying the annual practising fee, and from any obligation to pay annual contributions to the Solicitors' Fidelity Guarantee Fund and levies which might be imposed in aid of that fund. It also facilitates the maintenance and conduct of the practices of such solicitors during their absence on war service.

Pharmacy.—No. 54 empowers the Governor to appoint the Registrar and other officers of the Pharmacy Board under the provisions of the Public Service Act. Every registered pharmacist is obliged to pay a yearly roll fee which shall not exceed £2 or be less than £1. Non-payment will involve deregistration. A new section, 18A, provides that no company, and no association of persons incorporated or unincorporated, not bearing a partnership, shall carry on the business of a pharmacist in an open shop. Companies already established and carrying on business on November 27, 1940, are exempt from this provision, conditionally on there being no change of name, and that any change from one shop to another shall be within a radius of five miles of the shop occupied on that date. There is also a prohibition on a person carrying on the business of a pharmacist with more than one open shop.

The object of the measure is to limit the operations of what are known as chain store or company chemists.

Potato Growers Licensing.—No. 13 requires persons using areas in excess of one acre for potato growing to obtain a licence, the fee for which is fixed at 10s. per annum. The licence fees are to be paid into a special fund which is to be used for the promotion of the production, marketing, treatment and sale of potatoes, or in any other way the Minister might deem best calculated to develop or protect the industry.

Real Property (Amendment) Act.—No. 45 terminates collections of assurance in respect of transactions under the Real Property Act, 1900, and makes provision for the service of notices of intention to apply for an order for foreclosure in cases where the mortgagor is dead and representation of his estate has not been granted.

Stamp Duties.—S. 2 of No. 50 provides for exemption from death duty on estates of members of the naval, military and air forces of the Commonwealth of Australia who die on active service. Death duty on any property in which the deceased had an estate or interest limited to cease on the death of the deceased, introduced by the Stamp Duties Amendment Act, 1939, is repealed, together with relevant sections. The Act also provides for various exemptions from stamp duty.

Stock Foods and Medicines.—No. 19 provides for a penalty for the sale of chaff that is not hay chaff unless under a written agreement for some other quality. Every wholesale dealer in any manufactured stock food or any by-product is required to register such products. The particulars to be supplied to the Department of Agriculture are to include the chemical analysis of each product. Every vendor of stock foods or by-products shall affix a label to every package, block, cake or slab of the product setting out the name and address of the manufacturer or importer and a chemical analysis of the product. Every invoice, agreement, circular or advertisement relating to stock foods shall state specifically the materials of which the food consists, and such a statement shall be a warranty that the preparations are as stated.

Provision is made for the constitution of the Stock Medicines Board, and for the registration by every wholesale dealer of any stock medicines sold by him. Details of the constituent parts are required to be supplied, together with a statutory declaration verifying the statements. The Department of Agriculture must be informed as to any variations in directions for use of stock medicines. An application for registration of a stock medicine may be refused, but there is the right of appeal to a District Court Judge, whose decision is to be final. Inspectors and other officers are given wide powers of inspection, research, and for seizing any stock food which may appear to be unfit for use as such. Any food or medicine to which a conviction relates, including all the stock in the convicted person's possession, may be ordered to be forfeited.

Swine Branding.—No. 5 makes compulsory the branding of pigs for sale, and provides for the registration of brands and earmarks for that purpose. A person keeping not more than three pigs is not obliged to brand them, but he must be licensed to keep them. S. 18 sets out that compensation under the Swine Compensation Act, 1928-1935, shall not be payable if a carcase in respect of which a claim is made does not bear a registered brand.

Taxation.—Under the Unemployment Relief Tax (Management) Act, 1939, and Social Services Tax (Management) Act, 1939, weekly wages of £2 per week and over and other classes of income in excess of £100 per annum were liable to tax in the hands of persons without dependants. The amendment No. 3 provides for exemption from tax, as from May 1, 1940, where the weekly earnings are less than £2 per week or where the annual income is less than £156 per annum in the case of persons without dependants. Employees earning less than £4 4s. per week and persons with other classes of income under £219 per annum continue to be exempt from these taxes if they maintain a dependant.

Taxation Nos. 23 and 25, which should be read together, set out the rates and amounts of tax upon income from employment as from November 1st, 1940, and upon assessable income for the year ended June 30, 1940. The allocation of tax is amended to five-sevenths and two-sevenths for Unemployment Relief and Social Services respectively.

Nos. 22 and 24 should be read together. The definition of "Dependant" has been amended to provide that to come within that category an income should not exceed £100 in the previous year of income. The exemption is raised for a person without a dependant to an income not exceeding £156, and for a person with a dependant to an income not exceeding £220. Similarly, weekly earnings not exceeding three pounds per week and four pounds five shillings per week respectively are exempt. The exemption in s. 10(1) (k) of the principal Act was amended to apply to officers, seamen, etc., who are non-residents of New South Wales. Exclusion of dividends paid out of profits other than exempt profits from the apportionment provided by s. 12(6) (b) has been widened to include s. 53(a) of the principal Act in the exempt profits. Dividends wholly paid from exempt profits as specified in s. 53 (a), (b), (c), (d) and (f) of the principal Act are not allowable as a deduction to a company. A rebate is now provided for in respect of profits arising from the sale of goods in New South Wales where the goods are wholly produced or manufactured out of Australia, or where the goods are subject to further processes of manufacture in Australia, if the Commissioner is satisfied a rebate under s. 36 has been allowed for State Income Tax purposes.

Nos. 51 and 55, which should be read together, set out amended rates and amounts of tax upon income from employment as from January 1, 1941, and upon net assessable income for the year ended June 30, 1940. The amended rates give effect to a 10 per cent. per annum reduction in the existing rates.

Technical Education.—No. 20 provides for a measure of local autonomy in matters of Technical Education by partial decentralization of the administration and relates Technical Education more closely with trade and commerce. It also constitutes a New South Wales Institution of Technology and makes provision to prevent unqualified persons from offering to give for fee, remuneration, or reward, instruction in subjects which the Minister may declare to be vocational or pre-vocational in character. Authorities to be set up include a Technical Education Board for the State and a Technical Education District Council in each district. The Board will advise the Minister generally upon matters of Technical Education, arrange for proper inspections, and discharge the functions of a District Council for parts of the State not within any proclaimed district. Two districts are established—Sydney and Newcastle—and a new district may be created by proclamation. District Councils are to consist of members appointed by the Governor (to represent various bodies interested in Technical Education) and official members, such as the Under Secretary to the Treasury, the Director of Education, the Superintendent of Technical Education, and the Apprenticeship Commissioner. The Councils are empowered to discharge the duties and exercise the powers and functions hitherto performed by or on behalf of the Crown. Facilities for Technical Education within each district, and control and management of them, will be transferred to the appropriate Council. The powers of Advisory Councils are increased.

In each District there is to be a Council of Studies constituted as determined by the Regulations, and an Advisory Committee, to be constituted by the District Council in conformity with the by-laws, for each course of instruction provided for and carried on. District Councils may issue their own certificates and diplomas, but, in order to ensure uniformity of standards, provision is made for State certificates where prescribed conditions are observed. Teachers and others permanently employed in connection with Technical Education will remain employees of the Crown, under the control of the Minister, and subject to the jurisdiction of the Public Service Board. Casual employees are to be employed by the District Councils, and may be dismissed by them. Every employment and re-employment is to be reported to the Public Service Board, which is given power of review. A fund is to be established in each District and will include moneys provided by Parliament to meet the requirements of each Council and the Technical Education Board, and moneys received by a Council or the Board from any other source as fees, benefactions, etc. Gifts of money or property from private donors are to be invested or otherwise dealt with as the donors may direct, or, in the absence of directions, as the Governor may approve. All accounts are to be subject to audit by the Auditor-General. Expenditure by District Councils and the Technical Education Board will include salaries, wages, allowances or other remuneration of their officers and employees.

The New South Wales Institute of Technology is to consist of a Council (which will be a body corporate) consisting of thirty-three members, including certain important public functionaries and representatives of both Houses of Parliament, the Senate of the University, the Council of the Royal Society, the Technical Education District Councils, all the more important professional institutions, and associations, artists, and others. The aim of the Institute shall be to encourage research into science as applied to industry, and to disseminate Technological information.

Transport (Division of Functions) Amendment.—No. 46 limits the amount which may be recovered in an action against the Commissioners appointed under the Transport (Division of Functions) Act, 1932, to £2,000. In addition, all actions against any of the Commissioners shall be commenced within one year. No action shall be commenced until one month at least after a notice in writing has been delivered to any such Commissioner. There is also a provision conferring on each Commissioner the same power in his own Department as was enjoyed by the Board of Commissioners appointed under the Ministry of Transport Act, 1932, in respect of that particular Department.

Trustee and Wills (Emergency Provisions).—No. 32 amends the law relating to trustees, wills, and the limitation of actions. The more important provisions are: To enable trustees engaged on war service to delegate the execution of the trust; to enable persons whose consent is required to certain transactions to delegate the right to consent; to provide for time not running for the purpose of the limitation of actions, etc., where one of the parties is engaged on war service; to clarify and amend the law relating to wills by infant soldiers and sailors; and to enable the court to grant administration to the attorney of an executor or one of the next of kin engaged on war service.

Youth Welfare.—No. 48 provides for the constitution of an Advisory Committee on Youth Welfare and for the extension of the school leaving age. In 1941 the school leaving age is to be 14 years 4 months; in 1942, 14 years 8 months; and in 1943, and thereafter, 15 years. The Act empowers the Minister, by notification in the Gazette, to exclude certain part or parts of the State from the operation of the increased school leaving age. The Advisory Committee may, and at the request of the Minister shall, give consideration to matters connected with the school leaving age, the education and employment of children and young persons, and youth welfare generally, and shall, from time to time, report to the Minister.

[It is hoped to publish the summary of 1941 in the next issue.]

3. QUEENSLAND

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THE Session of the Parliament of Queensland commenced on August 20 and terminated on November 13, 1940.

During the Session, thirty Bills were passed, including two Appropriation Acts. The more important of these measures may briefly be observed.

The State Development and Public Works Organization Amendment Act extended the principles of the Principal Act of 1938 (see Rev. Leg., 1938, p. 70) in that the Co-ordinator General is empowered not only to plan a programme of Governmental and Local Authority works, but is now made a constructing authority and given corporate powers. Several measures are connected either directly or indirectly with the present war, such as the Public Safety Act, the Second-hand Fruit Cases Act, the Elections Amendment Act, the Wills (Soldiers, Sailors and Members of the Air Force) Act, the Medical Amendment Act, the Income Tax and Succession and Probate Duties (Sailors, Soldiers and Members of the Air Force) Exemption Act and the Fruit Marketing Organization Amendment Act. Important amendment was also made in the Common Law Practice Act, and a measure dealing with erosion (Burdekin River Trust Act) was also enacted.

State Development.—The State Development and Public Works Organization Act of 1938 constituted a Co-ordinator-General of Public Works, but limited his functions to planning a programme of Governmental and Local Authority works.

No. 2 extends the original measure to give the Co-ordinator-General (who for that purpose is constituted a body corporate) power to construct, establish, maintain, carry out or carry on Crown works or Local Authority works where he is authorized so to do by the Governor in Council, and also authorizes him, with the consent of the Governor in Council, to delegate the construction of works so authorized to a Crown instrumentality or local body. In order to allow him to carry out his functions as a Constructing Authority, the Co-ordinator-General is given power to resume land under the Public Works Land Resumption Acts, but with a modification of the procedure relating to the preliminaries to resuming. The Co-ordinator-General may disclaim a resumption found to be unnecessary after it has been initiated but before the land has actually been taken, upon payment for any damage done by him to the land concerned. The Co-ordinator-General's resumption powers are extended so as to enable him to resume land not only for his own works, but also on behalf of a local body. In addition, he may resume for any purpose of rural development or production approved by the Governor in Council.

A definition of " land " is inserted to cover not only freehold, but also tenures under the Land Acts and other Acts relating to Crown leases. The effect of this will be to enable the Co-ordinator-General to resume Crown tenures.

To facilitate resumptions by the Minister for Lands for the Co-ordinator-General, this Act provides that works authorized to be undertaken by the Co-ordinator-General are " public purposes " under the Land Acts except where that term occurs in the definition " Crown land."

The original s. 12, which enabled the Co-ordinator-General to plan a programme of works, but which, in practice—and more particularly in relation to the present Loan Council procedure regarding works—was found to require re-modelling, is repealed and re-enacted. As reconstituted, this section will allow the forward planning of a programme of works over a period but will enable such works to be ranked in the order of their importance with a view to giving precedence to such of them as are the most important in relation to employment and other factors.

Important new provisions prohibit the plan from being modified in respect of specific works included therein without the consent of the Co-ordinator-General given with the approval of the Minister, with an additional power to the Minister to require the Co-ordinator-General to reserve the question of such consent in any case or class of cases for himself or the Governor in Council.

Loan works of local bodies are to be submitted for the consideration of the Co-ordinator-General before a Crown loan or guarantee of a loan is given.

Public Safety.—No. 40 adopts the principles of the Emergency Powers Defence Act passed on May 22, 1940, by the Imperial Parliament for the purpose of providing for the welfare, order and public safety of the State and its inhabitants during any emergency which might arise through invasion or air raid or imminent danger thereof during the present war.

The administration of the Act is vested in a Sub-Committee of the Cabinet consisting of the Premier as Chairman, the Treasurer as Deputy Chairman, the Secretary for Health and Home Affairs and the Minister for Transport, which will function as a Council of Public Safety.

The great distances and limited means of communication between centres of population in Queensland have led to the insertion of special provisions. Thus power is given to this Sub-Committee to constitute Local Emergency Commissions for particular districts. In the case of Queensland, this would enable the functions of the Act to be discharged in a distant centre of population cut off from the metropolis by enemy action. The Local Emergency Commission will exercise such powers as the Council delegates to it. These may include the functions of a public utility such as a Local Authority, Water Authority, Fire or Ambulance Brigade, or Hospital Committee.

In order to curtail as far as may be offences ordinarily regarded as petty, but which experience in other countries shows tend to assume serious proportions during war emergency, the power to arrest without warrant is given. This extends to such matters as looting, pilfering, and the carrying of firearms.

A person in charge of a child of or under the age of sixteen years is made responsible for the observance by such child of this Act.

Second-hand Fruit Cases.—No. 29 is a purely war-time Act which is to continue in force for the duration of the war and for such period thereafter as Parliament may decide. Moreover, it is only to be in force within the south-eastern portion of the State.

The Act constitutes a " Second-hand Fruit Cases Committee " which will be charged with conserving, controlling and adjusting supplies of second-hand fruit cases. This power is necessitated by the war causing an acute shortage of nails and timber. The Committee will consist of the Director of Marketing, two nominees of the Committee of Direction of Fruit Marketing, and two nominees of the Queensland Chamber of Fruit and Vegetable Industries, *i.e.*, the organization representing agents who sell fruit and vegetables. For the purpose of exercising its functions the Committee will (1) act as a clearing house for second-hand fruit cases. For this purpose orders for supplies will go to the Committee, which will distribute them to dealers, and (2) be entrusted with the licensing of dealers in second-hand fruit cases, with power to regulate the carrying on of his business by a dealer, in order to ensure that all sections of the fruit and vegetable industry will have their case requirements met, so far as the supply will allow.

The Act prohibits the use of second-hand fruit cases except for the purpose of packing fruit or vegetables, unless with the permission of the Committee. Power is given, however, to enable cases no longer fit for the trade to be disposed of for other purposes.

An important provision makes second-hand fruit cases commodities within the meaning of the Profiteering Prevention Acts, and confers upon the Commissioner of Prices power to fix maximum prices payable by or to dealers for second-hand cases.

The cost of administering the Act is to be met equally by the Committee of Direction and the agents selling fruit and vegetables.

Wills (Soldiers, Sailors, and Members of the Air Force).—S. 43 of the Succession Act of 1867 provides that any soldier on actual military service or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the passing of that Act.

No. 4 extends s. 43 to cover the exigencies of a modern war by (*a*) The removal of a doubt as to whether or not s. 43 authorizes soldiers, sailors and members of the Air Force to dispose of their personal estate though under the age of twenty-one. (*b*) Placing members of the Naval and Marine Forces and females serving with the Forces (doctors, nurses, etc.) in the same position in regard to the making of Wills as soldiers. (*c*) Enabling soldiers, sailors and members of the Air Force to dispose of realty by means of a Will made under s. 43. (*d*) Enabling soldiers, sailors and members of the Air Force to appoint testamentary guardians by means of a Will under s. 43. (*e*) Allowing a minor who made a soldier's Will to revoke it after his military service ceases but while he is still under twenty-one. (He cannot, however, alter it after such service ceases.) (*f*) Prohibiting witnesses, their wives or husbands from benefiting under a soldier's Will. (*g*) Extending the definition of " soldier " to include members of the Air Force.

Common Law Practice.—No. 6 excepts from the Law of the State to a considerable extent the old Common Law Rule expressed in the Latin maxim—" *Actio personalis moritur cum persona.*" It may be noted that the Common Law Practice Act had already impinged on this maxim by giving an action for damages to certain classes of dependents of a deceased whose death was caused by the negligence of the defendant. Under this amending Act, subject to certain exceptions, the estate will be entitled to recover or be liable for damages to the same extent as the deceased would have been had he not died. Exceptions are actions for defamation, seduction, inducing one spouse to leave or remain apart from the other or for damages on the ground of adultery.

If the action is brought for the benefit of an estate, exemplary damages are not recoverable. In the case of a breach of promise to marry the action is limited to the damage, if any, suffered by the estate, and where the death was caused by the act or omission giving rise to the action damages are to be calculated without reference to any loss or gain to the estate consequent on the death, excepting medical and funeral expenses, which may be claimed unless payable from moneys accruing to the estate upon death for the purpose of paying same.

Actions in tort can only be proceeded with if pending at the date of death or the cause of action arose within six months before and proceedings are taken within six months after death.

In the case of commorientes—*i.e.*, persons dying at the same time—the defendant is deemed to have died after causing the damage.

Elections.—No. 15 preserves to a member of the Naval, Military, or Air Forces, or a person engaged outside Queensland in defence work his rights as an elector. Provision is made for any member of the Forces to obtain enrolment by proxy.

Every room or ward of a hospital or charitable institution appointed as a polling-place is declared to be a polling-booth for the purpose of enabling any patient therein unable by reason of ill-health to move to vote.

A further amendment allows a member of the Naval, Military or Air Force exercising a postal vote to have his vote witnessed by another such member.

The existing provision in the Act providing against rejection of ballot-papers for informality is widened to provide that a ballot-paper shall not be rejected merely because of the manner in which a voter has dealt with it if, in the opinion of the Returning Officer, the intention in voting is clearly apparent. The Returning Officer is, however, required to reject a ballot-paper which, in his opinion, is so marked as to enable the vote or the elector to be identified.

The getting possession of, or having in possession, election material used on polling day or ballot-papers without authority, justification or excuse under the Electoral Laws is made an offence, and the time within which officers appointed under the Elections Acts may be prosecuted for a breach of duty is extended.

Auctioneers and Commission Agents.—The Auctioneers and Commission Agents Acts provide for two classes of auctioneers' licences, *i.e.*, general and district, and adopts as districts Petty Sessions districts. General licenses, however, are required for districts comprising certain large cities, excepting Brisbane, every Petty Sessions district which bears the same name as the city extends far outside the city boundaries and in several cases embraces small rural towns. As the Act stands, an auctioneer practising exclusively in one of these rural towns would require a general license. No. 16 confines the requirement of a general license to the cities concerned, except in the case of the metropolis.

Wages Attachment.—In Queensland a maintenance order may be enforced and non-compliance therewith punished by a fine or imprisonment or both. Formerly the law had no provision for attaching wages or other moneys owing to a defaulting husband or father of an illegitimate child to enforce maintenance against him.

No. 17 makes provision for the attachment of wages, debts and moneys owing or accruing or which may become due or accrue from any third person to a defaulting husband or father of an illegitimate child to answer the maintenance order. In the case of wages, the same exemption as that allowed to a single worker will be granted, *i.e.*, £2 a week. In addition to this £2, a single worker may claim a further exemption equal to the amount of the dependency upon him of his widowed mother and any brothers or sisters under the age of 16, but to obtain this extra exemption he has to prove the dependency.

In most cases maintenance proceedings fall within the jurisdiction of Courts of Petty Sessions, and the necessary machinery provisions are added to enable these Courts to attach debts and other moneys.

Briefly, power is given to a Clerk of Petty Sessions to require the payment to him of any debt or money either presently due or that may become payable at a future date to a husband or father who has failed to observe a maintenance order.

If this notice relates to a single worker he is to be given an opportunity of proving the extent of the dependency upon him of a widowed mother or any brothers or sisters under the age of 16 before any moneys paid to the Clerk of Petty Sessions are applied in satisfaction of the arrears of maintenance.

Friendly Societies.—No. 26 is designed to regulate the activities of medical, funeral and sickness benefit businesses, and to protect their contributors. The method adopted is shortly to cause these bodies to be registered under the Friendly Societies Acts, to provide rules governing their businesses, proceedings and trust property, and to make it an offence for which the principal officers of the body will be liable if the businesses in question are carried on without registration. Sickness, medical or funeral benefit businesses are defined. Briefly, the definition covers a business which receives a contribution either in a lump sum or by way of periodical payments, in return for which a sickness or a medical or a funeral benefit is to be provided.

Before an applicant for registration can obtain same, he will be required to submit particulars of his proposed business to the Registrar and also to have a proper actuarial valuation of his rates of contributions and benefit payments. In order to ensure as far as possible that his business will be established on a sound financial basis provision is also inserted requiring the business to be revalued at not longer than five-yearly intervals, and the Act enables an adjustment to be made where the assets are insufficient to meet liabilities or are more than sufficient for that purpose.

Special provision is inserted to safeguard so much of a contributor's payments as are reasonably necessary to provide his benefit. For this purpose a certain proportion of the contribution must be allocated to a Special Trust Fund which can only be utilized in paying benefits or making refunds to contributors.

In order to provide for the financial stability of these businesses, they are prohibited from obtaining registration until they lodge security with the Treasury. The security is to be in cash or gilt-edged securities and is to be at the rate of £2,000 for the first £20,000 of benefits payable and £250 for every additional £20,000 or part of £20,000 of benefits payable.

Special provision is made with regard to those businesses existing at the passing of the Act. They will be given six months to register with a provision that in registering they must safeguard the rights of existing contributors. Any such business not registered within that period must be wound up, and provision is made for the repayment of contributions made prior to any such winding-up. If any such business is required to deposit more than £2,000, it may be granted time to find the balance over that amount upon giving security for due payment thereof.

Insurance.—Under the Insurance Acts agents employed by Insurance Companies must be licensed by the Treasurer and each agent must make an individual application for his license. This system led to thousands of applications, and for convenience No. 24 discards it in favour of another system whereby the Company will make the application and be responsible for the licensing of all its agents.

The Motor Vehicles Insurance Acts are also amended to conform to the amendment of the Common Law Practice Act made this Session (see *supra*). It will be remembered that the Common Law Practice Act Amendment Act extended the legal liability of a person responsible for damages to his estate in the event of his death before discharging that responsibility. The amendment requires his Compulsory Motor Vehicle Insurance Policy to cover his estate as well as himself.

A further amendment provides that where a car owner is legally liable for injuries to a worker who obtains worker's compensation for such injuries, the Insurance Commissioner is entitled to be refunded the amount of worker's compensation paid from the compulsory insurance.

Income Tax and Succession and Probate Duties (Sailors, Soldiers, and Members of the Air Force) Exemption.—No. 22 gives the following exemption from State taxes and duties to members of the Naval, Military and Air Forces:—

Any member enlisted or appointed for service outside Australia during the present war, with the Naval, Military or Air Forces of the Commonwealth, or any of the King's Dominions or any of His Majesty's Allies, will be exempt from liability to pay income tax or income (State development) tax upon the pay or allowances earned by him as a member of such forces during the period commencing on the third day of September, 1939, or if he was enlisted or appointed after that date commencing on the date of enlistment or appointment and terminating on the date of his discharge, or the termination of his appointment. However, to be eligible for this exemption during any income year, a member of the Naval Forces must serve in a sea-going ship at some time during the period commencing on the third day of September, 1939, and ending at the expiration of one year after the close of the year of income. A member of the Military or Air Forces must embark for service outside Australia during the same period to be eligible.

An exemption from probate or administration or succession duties of the estate of a member of the Naval, Military or Air Forces of the Commonwealth or of any part of His Majesty's Dominions or of any of his Allies, who during the present war or within one year after its termination dies on active service or as the result of injuries received or disease contracted on active service, if the total value of such estate in or out of Queensland does not exceed £5,000. In addition, the Act allows to taxpayers as an allowable deduction for the purpose of assessing their taxable income, gifts to the value of £1 and upwards made to patriotic funds established for the comfort, recreation or welfare of members of the above Forces, or of those subjects of His Majesty or of any of his Allies, who have suffered damage occasioned by air raid or invasion, or made for the Commonwealth defence purposes. A further provision provides that gift duty shall not be payable upon these gifts.

Cinematograph Films.—No. 30, which comes into force on a date to be proclaimed by the Governor in Council, makes provision for a standard form of contract in relation to the hiring of cinematograph films by distributors to exhibitors. Power is given to the Governor in Council to classify films and to make different standard forms of contract in respect of different classes of films. A standard form of contract when made by the Governor in Council and published in the "Government Gazette" will bind distributors and exhibitors of films included in the class to which it relates, that is to say, every contract between a distributor and an exhibitor made after the date of publication of the standard form will be read and construed subject thereto.

In order to prevent evasion of the Act, power is given to the Governor in Council to apply the first standard form of contract made in relation to any class of films to contracts relating to those films made before the making of the standard form.

All contracts for the hiring of films must be registered with the Under Secretary, Department of Health and Home Affairs, within thirty days after the making thereof. The distributor is responsible for the registration and he will be unable to enforce his contract until he registers it. This disability will not, however, attach to an exhibitor who is a party to an unregistered contract.

Fruit Marketing Organization.—No. 12 authorizes the Committee of Direction (of Fruit Marketing) to lend moneys to the Commonwealth of Australia by way of interest-free loan for the duration of the present war and not longer than six months thereafter. It also authorizes the Governor in Council to approve of similar loans in the case of other bodies or associations or persons.

Medical Practitioners.—To remedy as far as possible the shortage of medical practitioners occasioned by the war, No. 21 suspends the provisions of the Medical Act requiring applicants for registration as medical practitioners to have practical experience. The Governor in Council is authorized to terminate the suspension at any time after the conclusion of the war.

Hire-purchase Agreements.—Hire-purchase sales are commonly financed by discount houses who take the advantages conferred upon the owner under the hire-purchase agreement. Moreover, in many cases articles are bought under hire purchase upon the faith of a demonstration. Finally, the document itself generally includes a clause specifying that it embodies the whole transaction between the parties.

No. 7 seeks to remedy any unfair operation against hirers of the above factors. The person entering into a hire-purchase agreement as owner is made legally liable for representations, promises or terms made or offered to the hirer in relation to the transaction by the actual vendor or his representative within six months prior to the making of the hire-purchase agreement. The actual vendor includes any person who within this period offered or agreed to sell to the hirer or obtained or received from the hirer an application or order for the letting or sale.

Where the actual vendor sells chattels of the class to which the transaction relates, this legal liability extends to a representation, promise or term made or offered in respect of any chattel of that class. In addition, the Act provides that on and after the date of its passing any term or provision contained in a hire-purchase agreement or separate document by which a hirer purports to contract out of any legal right or remedy which he may have will be void.

Drought Relief.—No. 9 provides machinery enabling the Crown to make moneys available by way of loan for the relief of drought-stricken primary producers.

At the date of the passing of the Act, Queensland primary producing areas, in common with similar areas in most of the other States of the Commonwealth, were being ravaged by a severe and prolonged drought and the Commonwealth had already made available a loan, from which £50,000 was allocated to Queensland, for relief purposes. For the purposes of relief primary producers are divided into two classes, namely, those supplying or who ordinarily supply their produce to dairy factories, marketing boards or other organizations, and those, particularly dairy farmers, who supply their produce direct to consumers. In the first case the relief will be afforded through the factory, marketing board or organization concerned, which will be required to complete an indenture with the Corporation of the Bureau of Rural Development before the relief money is made available. The advance will be by way of a loan and the indenture will set out the terms and conditions upon and subject to which primary producers are to be afforded relief, and of the repayment of the loan.

To qualify for relief a primary producer must furnish evidence to the factory or other body that his stock are in need of food and/or water, and also that his financial circumstances preclude him from purchasing these necessaries himself. He must also give an undertaking to repay the cost of the fodder and water and an assignment of not less than 5 per centum of moneys payable to him for primary produce supplied.

The dairy factory or body will utilize the moneys advanced to it by way of loan for the purchase of fodder and/or water for distribution to suppliers of primary produce. Power will be given to one factory or other body to enforce its assignments through another factory to which a primary producer may divert his produce, and to prevent assignors from evading their obligations by supplying their produce in the name of some other person the Act provides that an assignment shall attach to all produce supplied from the property to which it relates.

The Act extends the legal powers of bodies corporate which own factories so as to enable them to implement their functions thereunder.

In the case of primary producers not supplying direct to consumers, drought relief will be afforded direct by the Corporation of the Bureau of Rural Development, but any such primary producer must be qualified as hereinbefore set out before he is entitled to relief.

The Auditor-General is authorized to audit the books of bodies which have obtained loans for drought relief purposes.

Poultry and Eggs.—No. 8 provides that any vendor of poultry or carcasses of poultry for human consumption who buys his supplies, must obtain a delivery note when such poultry is supplied to him. The object of this is to prevent wayside vendors of cooked poultry from acting as receivers for stolen birds.

The Act also provides for the classification of eggs and the prescribing of standards for the various classes of eggs, and gives power to regulate and control the sale of eggs and the processing or treatment of eggs. The Act is also extended to deal with the marking of eggs and to enable premises upon or from which eggs are sold to be inspected.

Another provision regulates the packing of eggs for sale and the pulping of eggs, and controls the slaughter of poultry for sale for human consumption, and power is given to confine all regulations in respect of these matters to prescribed districts.

Brands.—The existing Brands Acts authorize the detention of stock bearing blotched brands for the purposes of a prosecution.

Experience has shown difficulties in this provision insofar as the Crown would render itself liable for detention in cases where subsequent investigations fail to furnish sufficient evidence to prosecute. This provision is extended by No. 10 so as to enable the Crown to detain stock bearing blotched brands pending investigation.

If proceedings do not follow, the owner is entitled to repossession upon paying the cost of maintaining the stock during the period of detention. In any event, both the owner and the person in charge of the stock at the time of detention are made liable for this charge Every member of the Police Force is to be *ex officio* an inspector under the Act.

The certificate of registration of a sheep fire or paint brand may specify the position in which it is to be imprinted, and the use of distinctive marks to note the age or class of sheep is confined to owners of a registered sheep mark or sheep brand.

Diseases in Stock.—Prior notification of the intention to introduce stock into Queensland is prescribed by No. 11.

Provision is made for the issue of a permit to travel stock extending over a period of not more than three months for the purpose of enabling their removal to and from holdings not more than 40 miles apart for the purpose of being fed or watered. The special " T " brand prescribed for travelling sheep will not be required in the case of sheep travelled on the hoof for not more than 40 miles or conveyed by rail or motor vehicle.

Local Government.—No. 25 removes an anomaly existing under the Local Government Act respecting the valuation of lands held from the Crown under settlement farm lease and also provides machinery for correcting the valuation of certain other Crown tenures which have been valued for Local Authority purposes on a wrong basis.

Local Authorities, including Brisbane City Council, are authorized to remit rates payable by members of the Naval, Military and Air Forces in cases where the liability is incurred during the period of their absence on war service during the present war or for six months thereafter.

Nurses and Masseurs Registration.—No. 20 makes provision for the registration of masseurs taking a recently instituted course at the Queensland University and qualifying.

Mines.—The principal Act is amended by No. 3 to enable the Mines Department to deal with trespassers on Crown lands within the limits of a gold field or mineral field, and also to enable the holder of a tenure within any such field to deal with trespassers. The amendments do not prejudice the provisions of the Land Acts relating to trespassers upon Crown land.

This Act also amends the Coal Mining Acts to extend the safety provisions thereof to mining for mineral oil. The definitions " coal " and " coal mine " are enlarged. In the case of a coal mine, the main object is to treat as a separate mine each part of a coal mine which is being worked by means of a separate shaft.

The present Acts provide for three-monthly surveys of workings, but power is now given to the Minister to extend this period for a further three months provided the total interval between surveys does not exceed six months.

No. 13 fixes the royalty payable upon mineral oil obtained from mining operations (*i.e.*, mineral oil other than that obtained in a free flowing state) at 2 per cent. of the gross value of crude oil obtained during the term of the lease with the exception of the first year of production. Thus no royalty will be payable by a lessee until after the first full year of production. The concession is substantial, as before this amendment the royalty was 10 per cent. of the value of all crude oil obtained.

Water.—No. 27 provides for the discharge of the effluent from sewerage treatment works into watercourses subject to the consent and upon the terms and conditions imposed by the Governor in Council. It makes the Minister for Lands a constructing Authority under the Public Works Land Resumption Acts with all the powers of the Crown for the purposes of enabling him to take any land whether within or without the area for the purposes of any Water Authority or Local Authority undertaking or function of local government.

Provision is also made for the payment by the Local Authority or Water Authority concerned of the costs of resuming land on its behalf for an undertaking or function and also for work carried out by the Commissioner for Irrigation in relation or with respect to any such function or undertakings. The amendment will extend retrospectively. In retrospective cases, however, there will be no liability for the Commissioner's costs if the Treasurer is satisfied that the Water Authority or Local Authority concerned had no prior knowledge that it would be held responsible. The Treasurer is to have power to direct a Local Authority to pay all such costs, including compensation, out of any loan moneys granted or guaranteed by the Crown.

Land, when taken, is to be a permanent reserve under the Land Acts, but with power to the Governor in Council to vest its control and management in the Local Authority or Water Authority for the purposes for which it is taken. On the other hand, an easement, when taken, may be vested in the Local Authority or Water Authority. In the case of land subject to a Trust, the trustees have no personal right to compensation, but the amount is limited to the damage incurred by the Trust. It also gives consequential power for a Local Authority or Water Authority, with the permission of the Minister, to construct works in, upon or over roads outside its area. For the purposes of such works it has the same power and is subject to the same obligations as if the road were within its area.

The Act amends the Public Works Land Resumption Acts to allow the resumption of land for aviation, wireless broadcasting, shipbuilding and sewerage and drainage.

Education.—No. 18 makes it an offence for any person other than a pupil to wilfully disturb any school or to upbraid, abuse or insult any teacher, pupil teacher or probationer in the presence or hearing of the pupils then in school or assembled for school.

1941

THE Session of 1941 commenced on August 19, 1941, and ended on December 4, 1941.

During the Session thirty-eight Acts were passed, including two private Acts and two Appropriation Acts.

Among the measures of special importance was the National Education Co-ordination and University of Queensland Act, which when operative will enable a co-ordinated system of national education from Kindergarten to the University to be effected.

Another important measure will re-orientate the Department of Labour and Industry and make provision for a planned co-ordinated system of " employment-facilities" throughout the State, in the direction of placing workers, including returned members of the Forces, and minors, in employment, having in view existing war requirements and post-war problems in that regard. Certain other important provisions more or less dealing with the war will be referred to hereunder.

National Education Co-ordination and University of Queensland Acts Amendment Act of 1941.—Will operate on a proclaimed date, but in the meantime necessary machinery may be promulgated.

Up to 1912, the State, through the Education Department, was concerned mainly with primary education. The Department's contact with post-primary (or secondary) education was principally through State-endowed, but Board-controlled, grammar schools and granting of scholarships to approved secondary schools. However, since the inauguration of the University in 1910, the Government have established a number of high schools and has given serious attention to secondary education by encouraging its teachers to study for University degrees, recruiting University graduates in the teaching service and making attractive emoluments in the high school branch of the service.

The desire of the citizens of the State to give their children a proper grounding in the various stages of secondary education and the requirements not only of the various professions but spheres in commercial life that an applicant for employment shall at least be of Junior University Examination standard are factors in the evolution of the scheme envisaged. The University, too, is becoming the central pivot where proper training for the various professions in many walks of life is open to students. The Bill will increase the number of the Senate from 20 to 25, increasing the number of Governmental representation from 10 to 15 (including the Director-General of Education as *ex-officio* member), allowing nine members to be elected by the Council of the University and the President of the Professorial Board of the University to be *ex-officio* member. The additional governmental representation will enable the appointment to the Senate of persons (in addition to those with academic qualifications) well versed in the commercial, industrial, pastoral, and agricultural developmental activities of the State.

The Academic Standing Committee, the functions of which are the supervision of the educational affairs and teaching arrangements of the University, studies, examinations and lectures, will consist of the Director-General of Education, the President of the Professorial Board and seven members of the Senate.

A University Scholarships Board will also have direct representation thereon of the Director-General of Education, the University and Educational institutions.

A Board is also to be constituted called the Board of Post-primary Studies which will be concerned with the Junior and Senior Public Examinations of the University, while an important Board called the Board of Adult Education, widely representative not only of educational bodies, but of unions of employees and associations of employers, will enable University education to be disseminated by means of lectures, broadcasts, study-circles among the citizens of the State generally.

Provision is also made for the establishment of University colleges from time to time in various cities of the State, which will be incorporated and function as part of the University.

The Government will also increase the Statutory endowment from £20,000 to £40,000 annually.

The basic principle of the measure is to open the doors of education to the citizens of the State as well as their children, no matter how humbly situated in life.

Commonwealth and State Income Taxes Further Agreement Act of 1941.—

ratifies an agreement whereby State officials shall collect Commonwealth war-time company tax.

Income Tax Assessment Act Amendment Act of 1941.—This measure will enable income tax to be collected at the source by a system of instalment payments in respect of tax payable by employees. It will also enable arrangements to be entered into with the Commonwealth so that the State shall collect State income tax and Commonwealth income tax by instalments at one and the same time.

Taxpayers not employees may also avail themselves of the scheme by purchasing tax stamps which are credited against their tax. It may be added that satisfactory arrangements obtain between the Commonwealth and this State whereby State Income Tax Department collects both Commonwealth and State income tax, whether by instalment or by assessment in the usual way.

Emergency Supplies Act of 1941.—This measure is consequent upon the National Security (Emergency Supplies) rules made in June, 1941, under the authority delegated by the Commonwealth under the Commonwealth National Security Act, 1939-40. This Act will authorize the Treasurer on behalf of the Government to make certain payments and to guarantee certain debts and overdrafts incurred for the purpose of providing reserve stocks of certain goods in accordance with an arrangement made between the Commonwealth and the State.

Workers' Compensation Acts Amendment Act of 1941.—Allowances will be payable to children of the injured worker born after the accident as well as those living at the date of the accident. Maximum compensation in respect of certain diseases increased from £300 to £550 respectively to £375 and £750 respectively. As to settlement of claims—applications for compensation shall (as now existing) be allowed or rejected in the first instance by the Insurance Commissioner. But the Insurance Commissioner or a person objecting to his ruling may require the matter to be heard by an Industrial Magistrate. There is an appeal from the latter's decision to the Full Bench of the Industrial Court. The restriction formerly providing that such appeal shall lie only on a question of law and to be decided by the Court without argument is removed. Unless the Court otherwise orders that additional evidence be taken, the appeal (which shall be by way of rehearing) shall be heard and determined upon the evidence and proceedings before the Industrial Magistrate concerned.

Harbour Boards Acts Amendment Act of 1941.—The Treasurer representing the Crown is made a corporation sole and given corporate powers. The Corporation shall be deemed to be the Harbour Board where no Harbour Board has been constituted in respect of a harbour. Previously the Governor in Council was so deemed.

Attention is also given to reclamation of tidal lands, The Governor in Council may authorize the Corporation to reclaim certain lands. Moreover, if the Governor in Council is satisfied that it is expedient to permit any person to reclaim any land lying below high-water mark within the limits of any harbour and that such reclamation will neither interrupt or interfere with navigation nor prejudice the right, title, or interest of any other person, the Governor in Council may authorize such first-mentioned person to reclaim the land in question, subject, of course, to necessary terms and conditions as prescribed in the order of approval.

Health Acts Amendment Act of 1941.—The object of this Act is to prevent food and drug adulteration where the traffic is of an inter-State character, *i.e.*, when the adulterated product is sent over the border from this State or received over the border by this State from another State. Hence it is provided that no person shall from Queensland tender or despatch any food, drug or article which is adulterated or falsely described or marked contrary to or not in compliance with the Health Act, whether the actual sale be effected or is to become effective in Queensland or elsewhere ; but it will be a defence to prove that the sale was legally authorized under the laws in force where it was effected or to become effective. In like manner a person outside the State sending his adulterated food or drugs into this State will be subject to prosecution. As to dangerous drugs—these are defined in the Act. The amendment removes the definition and substitutes regulation-making power as to definition and control of dangerous drugs.

Adoption of Children Act Amendment Act of 1941.—The Minister may make arrangements with the Minister administering any territory of the Commonwealth (including mandated territory) or administering the law of any other State relating to the adoption of children for the transmission to, or by him, as the case requires, of a certified copy of any adoption order concerning a child born in Queensland and adopted under the law of such Territory or State or born in such Territory or State and adopted under the Queensland law. The measure will ensure that the record of adoption at all events in the reciprocating States and Territories will prevent the issue of the original birth certificate in respect of the adopted child—hence preventing an obvious hardship in that direction being inflicted on the child.

Air Raid Wardens Act Amendment Act of 1941.—The Act extends the Principal Act of 1939 and enables the Governor in Council to constitute such civil defence organizations as he shall think necessary for securing the civil defence of the State or any part thereof in the event of an emergency arising through air raid or other enemy attack. A list of authorized organizations shall be published in the Gazette, and no body or association is deemed a properly constituted organization unless its name is included in the latest published list. The Workers' Compensation Acts shall apply to members of civil defence organizations and air raid wardens to the intent that such persons are deemed employees of the Crown during periods of training or while on duty as such members or wardens during an air raid or enemy attack.

An association illegally using the word "A.R.P." or "civil defence" is guilty of an offence, and so are persons using civil defence badges or insignia without lawful authority.

Liquor Acts Amendment Act of 1941.—Amends the Principal Act 1912-35 in several directions. Every means of ingress and egress to a bar or place where liquor is stored must be kept closed during prohibited times, except in the case of entry to clean the bar or entry to obtain liquor to supply a "*bona fide* lodger" or "*bona fide* traveller."

The trading hours are fixed at 10 a.m. to 10 p.m. on the business days of the week (previously 8 a.m. to 8 p.m.). A licensee may supply liquor during prohibited times to a *bona fide* lodger and permit such lodger or his guest to drink the liquor at a place other than the bar. A licensed victualler may permit liquor to be drunk on his premises at a place other than the bar by a *bona fide* traveller, and may supply such person with liquor between the hours of 12 noon and 2 p.m. and between 5 p.m. and 7 p.m. on prohibited times. A "*bona fide* traveller" must reside at least forty miles from the licensed premises and must have travelled at least that distance on the day in question. The licensee must keep a "travellers' book" in which the traveller must sign and enter his true name and address and the distance travelled by him on the day on which he makes such entries and the address from which he has travelled.

The Principal Act provides that a licensee after a prescribed number of convictions may lose his licence, and in addition the premises may be de-licensed. Experience has shown that this provision is evaded by transferring a licence to a "dummy." The Act provides that the Licensing Commission may call upon the licensee and proposed transferee to satisfy it that the transaction is genuine and not for the purpose of evading liability to forfeiture. Power is given to the Commission to refuse the transfer if it is not satisfied that the transaction is *bona fide*.

No person shall bring into or supply to any person in, or have in his possession or under his control in or in the vicinity of a public hall any liquor while any dance is being held or is about to be held in such hall or within one hour after the conclusion of the dance. The police are given powers of entry and seizure of the liquor, in addition to the penalties prescribed.

Emergency powers are also provided. The Governor in Council may suspend or restrict any of the provisions of the Act as to the sale of liquor if by an emergency arising or being expected to arise he considers the peace, good government and welfare of the State or specified part thereof is or is likely to be imperilled.

It may in passing be observed that when the above Act was passed a proclamation was issued under these powers reverting to the original trading hours, viz., 8 a.m. to 8 p.m.

The Buffalo Fly Control Act of 1941.—The Act is passed for the purposes of the control and/or eradication of the buffalo fly (*lyperosia exigua*) and other diseases affecting cattle. A fund is created the revenue whereof is obtained by the imposition of a cattle sales stamp duty at the rate of one penny for every £5 or part of £5 of the sale price of any cattle sold singly or in a lot where the sale price is £2 or upwards.

Cattle are defined as including bulls, stags, bullocks, steers, cows and heifers (calves are excluded).

Brands Acts and Diseases in Stock Acts Amendment Act of 1941.—This measure mainly concerns the spaying of cattle. The practice of spaying cattle has increased during the past years, and as a precaution it is necessary to provide whereby buyers of stock when buying cattle for breeding will not have spayed cattle sold to them. It will be an offence to mark with a spay mark any cattle other than a cow or heifer which has been sprayed, or on failing at the time when spaying a cow or heifer to mark such beast with a " spay mark " (which is specifically defined).

Dairy Produce Acts Amendment Act of 1941.—Owing to the difficulties encountered in respect of the export of butter, and in order that the troops may be supplied with butter fats in the form of cheese, this measure will enable a necessary change over from butter to cheese production. The Act will aid the successful prosecution of the war and its compulsory provisions will only be exercized where there is evidence that an existing voluntary system has broken down ; when this occurs in any areas power will be taken to proclaim the necessary areas. The Minister hence may notify an area as a milk area either generally or with respect to a cheese factory or factories specified in the notice. This area may be cancelled or modified. No person in whose name a dairy situated in a milk area is registered shall supply or permit or suffer to be supplied any cream produced on such dairy to any factory nor shall the owner of the factory accept delivery of such cream. There are certain powers of exemption and matters of local concern.

Primary Producers Organization and Marketing Acts and other Acts Amendment Act of 1941.—A marketing board (including the State wheat board) with the approval of the Governor in Council will have power to process or manufacture the commodity concerned and may sell the treated commodity derived from such process or manufacture. The Peanut Industry Board is given power to borrow upon the security of peanuts delivered for sale to it under the Principal Act. The Committee of Direction under the Fruit Marketing Organization Acts is enabled to be a shareholder in a cannery for the treatment and canning of products in addition to pineapple canning. It may also be enabled by the Governor in Council to process or treat any fruit or vegetables either alone or in conjunction with a person or body.

A person entitled to vote at any election in respect of Primary Production Boards or Boards constituted under the ægis of the Department of Agriculture and Stock, or a candidate for election thereon, must not only have the specific electoral qualification dealing with the Board concerned, but must be an elector enrolled under the State Elections Act or entitled to be so enrolled under s. 35A thereof. Moreover, any person holding office on any Board as Chairman or member who has not that additional electoral qualification must vacate his seat. A person detained under the Commonwealth National Security Act is ineligible to vote or be nominated or elected.

Seeds Act Amendment Act of 1941.—This measure inaugurates a system of seed certification and is read with the Principal Act of 1937. A seeds certification committee is constituted, consisting of not more than seven officers of the Department of Agriculture. Sub-committes may be appointed. The Central Committee shall have power to properly certify seeds for planting or sowing with respect to (i) hybrid, (ii) kind, variety or strain, and (iii) freedom from disease of the relative crop plants and/or with respect to other prescribed matters. A sub-committee generally shall assist the Central Committee and be subject to its directions. No person shall plant or sow any crop for the purpose of producing certified seed unless the area in which such seed is to be planted or sown shall be first registered. A list of growers of certified seed shall be published. Due provision is made for proper inspectorial supervision and for stencilling and labelling of parcels of the certified seed. Usual machinery provisions are prescribed.

Sugar Experiment Stations Acts and other Acts Amendment Act of 1941. In regard to the Sugar Experiment Stations Act, cane pest boards and cane diseases control boards shall be abolished as from April 1st, 1942. These boards overlapped, as generally the same district was both disease and pest infected. From the aforesaid date the Governor in Council may constitute a Cane Pest and Diseases Control Board for a specific area. The powers of the Board shall be to take steps within its jurisdiction for the suppression and prevention of cane pests and diseases and subject to directions as the Minister, on the recommendation of the Advisory Board, shall determine and sanction. Experience has also shown that certain plants growing in a sugar area harbour and spread cane disease. This measure hence applies the provisions of the Act relating to diseases to " alternate host plants." Provision is made for compensation to be payable in certain cases where sugar cane or alternate host plants within a cane pest and disease infected area are destroyed under the direction of the Minister or an Inspector.

Due provision is made for the audit of books and the levy of assessments.

Co-ordination of Employment Facilities Act of 1941.—The objects of this measure may succinctly be set forth as follows:—

1. To devise a planned system to meet war and post-war problems as appertain to employment-placing generally.

2. To reconstitute the existing Department of Labour and Industry under the name of the Department of Labour and Employment.

3. To re-orientate the Labour Exchanges (which will in future be called Employment Exchanges)—

> Institute a system of co-ordination between Employment agencies, *e.g.*, Crown instrumentalities, local bodies, Bureau of Industry, Unemployment Insurance Council, Co-ordinator-General of Public Works, Unions of Employees, and Associations of Employers, or individual employers, with the object of employment-placing generally.
>
> In other words, the aim of the measure is to place the principle of the " right to work " on the Statute Book.

It may be observed that existing legislation in the State, namely, the State Development and Public Works Co-ordination Acts, 1938-1940," co-ordinates public works, whether of the Crown or of local bodies ; this measure is a collateral one, with the object of " employment-placing " co-ordination by bringing about a " fusion " of employment-placing facilities on an organized basis.

4. Constitute a Central Employment Council, called " State Employment Council."

This Council is to be a central clearing house for the various Employment Exchanges Boards (to be referred to).

5. Create State Employment exchanges in the various important employment centres of the State with power to add to the number and at the same time preserve the existing exchanges constituted under the Labour Exchanges Act of 1915.

6. Establish a Local Employment Exchange Board for each District to be constituted to assist in the fulfilment of the scheme.

These local Boards will act in conjunction with the Central Council.

7. Constitute Industry Committees as adjuncts of the Boards.

8. Power to be given to the Central Board and the Local Board to avail themselves of assistance and advice both from State Departments and local bodies.

9. Give statutory recognition to the Juvenile Employment Bureau and reconstitute it.

This measure will come into operation on a proclaimed date, but in the meantime attention is being given to provide for the necessary machinery of operation.

The Central Council will be the pivot upon which the burden of organization, co-operation and administration will rest.

There will be eleven representatives to the Central Council, comprized of the Minister (*ex-officio* member and Chairman), the Director of Employment, Co-ordinator-General of Public Works, Director of the Bureau of Industry, Director-General of Education, all of whom will be *ex-officio* members, two workers' representatives elected by industrial unions, two employers' representatives elected by associations of employers, a representative of the Brisbane City Council and a returned sailors', soldiers', and airmen representative. The Council hence is widely representative of the State.

Usual provisions as to meetings, vacancies, disqualifications are prescribed.

It shall be the general duty of the Council to attain efficient co-ordination of the employment-placing agencies of the State with a view to effecting as far as possible the principle of " the right to work." With the approval of the Governor in Council, the Council may collaborate with the Commonwealth as to works generally and war and post-war requirements.

Districts shall be constituted and free State employment exchanges shall be appointed for each district.

Employment Exchange Boards shall be constituted for each District, and the measure names the places at which these Boards will be constituted in the first instance.

The Employment Officer shall be *ex-officio* a member and Chairman. The Director of Employment shall be *ex-officio* member of any Board. There will be two workers' representatives, one employers' representative, and a representative of the local authority.

Each Board will act as an adjunct of the Central Council and will keep in touch with the parent centre and advise it with respect to any local works in the district which could with advantage both to the district and as an aid to employment be undertaken by the local bodies therein.

Industry Committees in respect of any particular trade or calling may be constituted who shall be persons well versed in the trade or calling concerned.

Private exchanges shall not be abolished, but shall be subject to supervision and registration.

The Juvenile Employment Bureau is operating at present as a Departmental Committee. This measure will give it statutory recognition and reconstitute it. Membership is on a wide basis and fully representative of interested parties.

The Bureau will collaborate with the Central Council or a local Board and with the apprenticeship executive. It will give special attention to minors other than apprentices and will consider measures to be adopted to reduce what is known as " dead-end " employment. The Bureau may also initiate proceedings in the Industrial Court. Committees may be appointed to assist the Bureau.

Arrangements will also be made as to the proper education and training of minors.

Usual regulation-making power to the Governor in Council is provided.

Income (State Development Tax) Amendment Act of 1941.—The basic wage in Queensland was increased on March 31st, 1941, from £4 4s. to £4 9s. per week. This will make the basic wage £232 per annum, so that exemption from taxation will apply with respect to such basic wage earners. The scale is accordingly adjusted by adding a £13 increase in respect of the exemptions. Provision as to offences for false statements, illegal application for ration relief assistance and illegal trading in ration relief tickets is also enacted.

Industrial Conciliation and Arbitration Act Amendment Act of 1941.—Work done by employees on Good Friday, Labour Day, Christmas Day, Anzac Day, January 1st, January 26th, Easter Monday, the birthday of the Sovereign, and Boxing Day shall be paid for at the rate of double time. A full day's wage shall be paid for Labour Day, whether work performed on that day or not.

The permanent head of a Department instead of the Minister shall be deemed the employer of those Government employees members of industrial unions employed in the Department concerned. An authorized union official may enter premises at any time during which employees are working therein, and may interview employees or converse with them during any lunch hour or non-working time, but no such officer shall wilfully hamper or hinder the employees during their working time. Where an employer proves to the satisfaction of the Court that the officer concerned has exercized his power of entry in an unreasonable or vexatious manner the Court may make an order restraining such officer as to his power of entry for such period as it shall deem fit, or it may direct such conditions to be observed by such officer in respect of such entry as it shall think fit.

Bills of Sale Acts Amendment Act of 1941.—One object of this measure is to simplify bills of sale and so reduce the cost incurred by the parties in relation to the transaction. Under previously existing law the document must set out all the terms and conditions agreed upon between the parties. Many of these are basic, that is to say, they are common to every bill of sale. This measure hence will provide that such terms and conditions are legally implied in the bill of sale—subject to the right of the parties to vary or modify them.

The implied terms and conditions include payment of the principal and interest secured, the proper care and custody of the goods, the right of inspection, power of sale in case of default and application of the sale price and the insuring of the goods.

The Act also makes compulsory the registration of a bill of sale within thirty days after its execution. The object of enforcing registration within a time limit is to prevent fraud.

Justices Acts Amendment Act of 1941.—This measure changes the designation of "Police Magistrate" to "Stipendiary Magistrate." It allows justices to grant bail in the first instance for the whole period of proceedings before them. As the law stood previously bail could only be granted from adjournment to adjournment. It allows a defendant proceeded against summarily for the recovery of moneys in the nature of a debt to make payment into Court to answer the complaint. This will save costs. The measure also enables the Full Court to refuse to quash on appeal a conviction or order made by justices if it is satisfied that no substantial miscarriage of justice has occurred. The Criminal Code has a similar provision in relation to an appeal against a conviction upon indictment.

Land Acts and other Acts Amendment Act of 1941.—This Bill amended various Acts under the administration of the Lands Department. The chief amendment deals with the appointment or removal of trustees, the proper audit and keeping of books by trustees of lands or reserves, and provision for the winding up of defunct trusts and the proper application of moneys therein concerned. During drought periods it has been found necessary to limit the taking of water from creeks and rivers for irrigation. The Acts did not give the Commission the necessary power ; this measure will remedy this. Royalties will be chargeable on material taken from the bed and banks of a river.

Mining for Coal and Mineral Oil Act Amendment Act of 1941.—Additional covenants are included in a lease. A covenant provides that a lessee is required to undertake production of mineral oil from material obtained from the demised land at the earliest date consistent with the proper development of the deposits of the material, and that in the event of a dispute concerning the date to accept and observe the decision of the Minister. The production by a person other than the lessee of oil from the land shall be a breach of covenant unless the consent of the Minister is obtained before that other person commenced production. The material obtained from the land demised or mineral oil produced therefrom shall not be sold or disposed of without the prior consent of the Minister and the observance of the conditions imposed by him.

Coal and Oil Shale Mine Workers (Pensions) Act of 1941.—This measure will make provision for and with respect to the payment of pensions to persons employed in the coal or oil shale mining industries and in certain callings thereto related and to certain other persons upon retirement or incapacity.

The purpose of the measure is broadly that a mine worker in the coal or oil shale mining industry shall retire at the age of 60 years as such a worker. Provisions set forth when such worker shall be eligible for a pension ; and pensions are also payable in certain cases to an injured mine worker. Payments are also made to the wife and dependants of the mine workers concerned. Proper adjustments are made with respect to workers' compensation payments—*i.e.*, to avoid double pensions.

A Pensions Tribunal is constituted consisting of a member nominated by the Minister as Chairman, a member appointed on the nomination of the organization of owners of coal and oil shale mines, and a member representative of employees in those mines. This Tribunal deals with applications for pensions in the first instance, but there is an appeal to the Industrial Court. A fund is constituted contributed by the Government, owners and employees in prescribed proportions.

This measure is similar in principle to a measure passed by the Parliament of New South Wales recently.

Agreements may be made by the Queensland Government with any Government having legislation of similar import.

The other measures are of local interest, namely, *inter alia,* Fish Supply Management Amendment Act as to the constitution of the Fish Board, an amendment of the Workers Accommodation Act as to requiring owners or employers to provide a proper " cooler " for the men employed within which to keep their foodstuffs.

The private Bills concern Church lands of the Church of England (local bequest) and of the Roman Catholic Church in the Northern part of the State.

4. SOUTH AUSTRALIA.

SIXTY-FIVE public Acts including some of a local character were passed and one private Act relating to the inauguration of the State Council of the Boy Scouts Association.

Superannuation.—No. 14 gives contributors in the Forces the right to pay superannuation upon any increase in salary to which they would have been entitled if not on active service and if they are unable to do so the State Treasurer may pay the amount on their behalf.

Drought Relief.—The State Treasurer by No. 16 may provide relief for any farmer who has sustained loss by reason of the drought and is assisted in the administration of the Act by an advisory board of three persons.

Moratorium.—No. 20 provides for a moratorium for and relief to mortgagors of land on account of the existing state of war.

Registration of Deaths.—The Births and Deaths Registration Act, 1936, is amended by No. 21 by the addition of a part to provide for the registration of deaths of men on active service or engaged with any Red Cross Society or ambulance association or any other body with similar objects. The Registrar is supplied with a certificate from an officer in charge of the proper records of any of the Forces concerned.

French Red Cross.—£2,220 11s. 4d. having been collected for the French Red Cross and owing to the capitulation of France could not be transmitted to them, No. 26 authorizes the trustees to apply the money to the relief of persons within the British Dominions who are or were of French nationality.

Weights and Measures.—The local standards of weights and measures under No. 27 are to be re-verified every five years.

Income Tax.—No. 9 sets out the rates of income tax for the ensuing year and No. 19 provides for exemption for members of the Armed Forces " of the Commonwealth or any part of the King's Dominions or of any Ally of Great Britain " on service outside Australia. If they are serving at home it must be shown that payment would cause hardship before they can obtain any concessions. No. 41 facilitates arrangements with the Commonwealth authorities for the collection of income tax.

Aged and Infirm Persons.—The procedure is laid down in No. 31 for protecting the property of aged and infirm persons who are unable to manage their own affairs by enabling an application to be made to the Supreme Court so that in effect they become wards of court. Within its provisions are included persons who take any excess of alcoholic liquors or any drugs which renders them wholly or partially unable to manage their own affairs, " Whether such inability is continual or occasional." A manager, either a relative, body corporate or the Public Trustee is to be appointed by the court to manage the estate. The Act follows closely the provisions of the New Zealand Act No. 26 of 1912.

Education.—The Education Act of 1915-1935 is amended by No. 38 to give clergymen the right to attend every public school for the purpose of giving religious instruction to the children for one half-hour in each week during the regular session of the school. Children attend according to the Church to which they belong and " when religious instruction is being given to any children in a school, secular instruction need not be given to the other children."

Electrical Articles and Materials.—Subject to other provisions of the Commonwealth Constitution, No. 39 regulates the sale and hiring of electrical material including wire, cable, appliances, fittings, meters, insulators, and by constituting an Electrical Goods Approval Committee to affix marks guaranteeing satisfactory descriptions and quality of such articles.

Wrongs.—The parents of any child may claim under No. 48 amending the Wrongs Act, 1936-1939, a sum not exceeding £300 from any person who has caused the death of the child " under circumstances as amount in law to felony." A husband or wife may claim a sum not exceeding £500 similarly as a solatium for the death of a spouse provided that the court may have regard " the conduct of the plaintiff in relation to the deceased person, or to the relations which existed between the plaintiff and the deceased person or for another sufficient reason it considers that no such payment should be made."

Criminal Law.—A series of amendments are made by No. 40 in the Consolidation Act of 1935. Indeterminate sentences may be given where the prisoner suffers from venereal disease. When a person has been found guilty of an offence of a sexual nature the court may direct an inquiry by two doctors into his mental condition, particularly whether it is such that " he is incapable of exercising proper control over his sexual instincts." Upon a request to that effect he may be detained during His Majesty's pleasure. Any presumption of law that an offence committed by a wife in the presence of her husband is under his coercion is abolished, but on a charge against a wife for any offence other than treason or murder, it shall be a good defence to prove that the offence was committed in the presence of and under the coercion of the husband.

Guardianship of Infants.—The Act of 1887 is repealed by No. 55 on the lines of English legislation and the laws of New South Wales.

Housing.—Two long measures dealt with the subject of housing. No. 23 amends the Building Act, 1923-1935 by providing a number of definitions with a view to its better enforcement. No. 56 is a comprehensive measure providing for the improvement of sub-standard housing conditions and the regulation of the rental of sub-standard houses. The administration of the Act is entrusted to the South Australian Housing Trust appointed by the Governor, whose members will be paid fees or salaries. It operates on lines familiar in England in the work of local authorities and with statutory powers similar to those contained in the Victorian Act No. 4,568 of 1938.

Petroleum.—No. 58 is a comprehensive measure dealing with the search and mining of petroleum.

Moneylenders.—The law relating to moneylenders is amended and consolidated in No. 59 on the lines of legislation in England and the Victorian Act No. 4,625 of 1938.

Survival of Causes of Action.—Following 24 and 25 Geo. V, c. 41, in the United Kingdom, c. 63 provides for causes of action to survive in the case of deceased persons for the benefit of his estate with the exception of actions for defamation or seduction or inducing one spouse to remain apart from the other. In such cases damages shall not include anything for pain or suffering as for any bodily or mental harm or for the curtailment of the expectation of life ; any exemplary damages ; in the case of a breach of promise of marriage, anything more than such damage to the estate of that person as flows from the breach of promise to marry ; or where the death of that person has been caused by the act or omission which gives rise to the cause of action, anything more than a sum in respect of funeral expenses. By this Act, 12 Edw. I, c. 23, and Edw. III, c. 7, and 3 and 4 Will. IV, c. 42, s. 2, cease to be part of the law of South Australia.

Veterinary Districts.—No. 64 is a comprehensive measure setting forth the procedure to be adopted to establish a veterinary district managed by a Board whose powers are set forth. It is financed by a levy upon the stock owners within the district.

[It is hoped to publish the review for 1941 in the next issue.]

5. TASMANIA.

[*Contributed by* H. J. Solomon, B.A., LL.B.]

The Session 4 & 5 George VI produced no less than 91 Acts, including the usual measure of formal enactments and also some half-dozen or so due to wartime conditions—that is, to protect or regulate the rights of various persons on war service or to authorize the raising or augmentation of patriotic funds.

Some of the more important Acts are summarized below:—

Lands Resumption (Public Utilities).—No. 11 varies the usual method of arriving at a valuation of land acquired by the Crown by providing that when such land is acquired for a public utility (*i.e.*, a school, hospital, child welfare clinic, police office, bridge, jetty, etc.) the value is to be that last determined under the Land Valuation Act (*i.e.*, for taxation purposes) plus 5 per cent. thereof and also the value of any subsequent improvements.

Police Offences.—No. 12 makes it an offence to stack timber on land (in any town) adjacent to a school, hospital, church or place of public entertainment unless licensed so to do by the Commissioner of Police. The Commissioner's licence may impose conditions for the preservation of public safety.

Public Service.—No. 18 makes transitory provisions for the filling for the duration of the war of the offices of officers of the service absent on war service.

Registration of Births and Deaths.—No. 19 adds to the principal Act new provisions for registering a change of name by deed poll or Royal licence and also for simplifying the registration of deaths of soldiers, etc., on active service.

Friendly Societies (War Service).—No. 26 is another Act due to war conditions and authorizes friendly societies to suspend or modify benefits to members on war service.

Gaming.—No. 29 relaxes the provisions of the principal Act sufficiently to allow certain patriotic societies to conduct raffles under permit.

Deceased Persons Estates Duties.—No. 41 exempts from duty estates not exceeding £5,000 net left by persons dying on active service.

Bush Fires.—No. 54 imposes additional restrictions on the lighting of fires in summer near any State forest or timber reserve. It empowers the Minister to declare " fire protected areas " within which fires may only be lit on permit.

Matrimonial Causes.—No. 57 makes two new important provisions. One adds a new ground of divorce for a petitioning wife—That her husband has, since the marriage, been convicted of rape, sodomy or bestiality. The first draft Bill had the words " been guilty of " any of these offences, but it was felt that such grave charges should not be in any way determined in a suit for divorce: hence the alteration. It may, however, be doubted whether the actual intention was not to provide " has been convicted of rape, sodomy or bestiality *committed* since the marriage." The other provision is aimed at preventing a successful petitioner from keeping the marriage in existence by omitting to apply for a decree absolute. The Act now permits the respondent to make this application. There are also minor amendments to the Act.

Justices Procedure.—No. 67 covers the surprising situation of the apparent existence of justices over-enthusiastic in giving honorary service by disqualifying justices from sitting or adjudicating under the Act unless specifically summoned by the Clerk of Petty Sessions.

Act No. 90 is even more surprising in that it finds it necessary to provide that the findings of a court of Petty Sessions remain valid even though such over-enthusiastic gentlemen find their way unsummoned to the bench.

1941.

SIXTY-SIX Acts were passed in 1941 and include local and personal as well as private Acts under the same enumeration.

Inebriate Hospitals.—The principal Act 56 Vic. No. 20 is extended by No. 16, to persons addicted to the habitual use of narcotic drugs to excess.

Fruit Growers.—The object of No. 21 is to provide for assistance to fruit growers who have suffered hardship in their business through climatic conditions.

Elections.—No. 26 makes various amendments of the Electoral Act 1907, following Commonwealth legislation on the subject. It includes the arrangements for postal voting and authority to the presiding officer to allow a person to accompany a voter unable to vote without assistance.

Housing.—Additions are made to existing legislation by No. 44, so as to give additional powers for the provision of homes for workers and to authorize the constitution of local advisory committees to assist the Minister and the Board in the administration of the Act. No. 45 enables municipal councils to provide housing accommodation for persons of limited means.

Contraceptives.—By an extension of the Police Offences Act, 1935, No. 46 prohibits the advertisement, exhibition, sale and distribution of contraceptives. Medical and pharmaceutical publications and their professional recipients are excepted. The intention of the Act appears to be an absolute prohibition.

6. VICTORIA.

[*Contributed by* S. H. Z. Woinarski, Esq., M.A., LL.B.]

During the First Session of the Thirty-fourth Parliament in 1940 seventy-seven Acts were passed (Nos. 4721-4797), a total which shows a marked falling off in legislative activity from the preceding years. The decrease was almost certainly due to the conditions brought about by the war, and in particular to the overriding Commonwealth legislation which those conditions begot. Of the total mentioned the great majority is made up of Acts which possess merely a local interest, including the annual financial and administrative measures ; but in twelve Acts there resides a wider significance, and they merit some detailed reference.

Farmers' Protection.—No. 4737 continues the policy of providing relief for the financially embarrassed farmer. Previous protective Acts having expired, this new piece of legislation is based on a somewhat new angle. It provides that any action, execution, process or proceeding in respect of any debt of a farmer (whether incurred before or after the commencement of the Act) which is commenced, proceeded with or put in force against the farmer or his property during the period of two years after the commencement of the Act shall be void and of no effect unless the creditor has given twenty-one days' notice thereof to the farmer. "Debt" is defined to mean any debt or liability due or accruing due by a farmer, liquidated or unliquidated, secured or unsecured, except (*a*) a liability arising under an order or judgment to pay alimony or maintenance ; (*b*) a liability to pay any penalty imposed by a Court ; (*c*) a liability to the Crown on recognizance or bond ; and (*d*) a liability in respect of any tort or breach of trust committed by the farmer. "Farmer" means one engaged in farming operations, and the definition of this latter term is so wide as to include dairy farming, poultry farming and bee farming.

The machinery of the protection provided is this—a copy of every such notice is to be delivered by the creditor to the Farmers Debts Adjustment Board which on the application of the farmer may issue to him a temporary protection order of not more than three months' duration in relation to the debt if incurred before the commencement of the Act. During the operation of the temporary protection order the farmer is not to dispose of or encumber his assets without the consent of the Board, and the Board is to endeavour by negotiation to secure an adjustment of the farmer's debts to the creditor. Failing such an adjustment the Board may issue to the farmer a conditional protection order of not more than twelve months' duration in relation to the creditor subject to such conditions as to the maintenance of the assets of the farmer, the meeting in whole or in part of the debt to the creditor and such other material matters as the Board thinks proper. Although any action taken against the farmer or his property in respect of the debt during the operation of a protection order is rendered void, the time prescribed by any statute of limitations is not to run against the creditor.

The Act, which is expressed to bind the Crown, is completed by the provision which is made for the extension, cancellation and registration of protection orders, for the protection of guarantors, predecessors in title, trustees and statutory corporations, and for nullifying agreements designed to prevent farmers from obtaining the benefits of the Act.

Margarine.—No. 4,741 constitutes a salvo in the continual offensive against the elusive quality of margarine which enables it to simulate some at least of the qualities of butter, and applies the licensing system to the manufacture of the product. The Act thus prohibits its manufacture otherwise than by the holder of a licence granted under the Act and in accordance with the conditions of such licence. Licences may be for the manufacture of either table margarine or cooking margarine. The amount of table margarine to be manufactured in Victoria is limited and the annual production by each holder of a table margarine licence is limited accordingly, but permits may be granted to manufacture additional table margarine for export beyond Australia. Both table and cooking margarine are not to be manufactured at the same premises, but the holder of a cooking margarine licence is permitted to manufacture a specified type of table margarine for sale only in bulk to prescribed classes of persons such as pastry-cooks. What are now the usual provisions concomitant with a licensing system complete the Act.

Life Assurance.—Act No. 4,741 affords to holders of ordinary life assurance policies which have a surrender value protection against forfeiture of the policies for non-payment of premiums or of interest on money advanced on the security of the policies. The conditions on which holders of such policies are entitled to be granted paid-up policies or surrender values of policies, and the method of calculating the respective amounts concerned are both duly prescribed. The provisions of the Act with respect to surrender values may be suspended during any time of financial emergency, and the provisions of the Act with respect to calculating the amount of paid-up policies and surrender values may be modified with respect to any particular policy or class of policies.

Public Trustee.—No. 4,755 confers additional powers on the Public Trustee. It empowers any person who is entitled to a grant of administration or probate to authorize the Public Trustee to obtain such grant; authorizes executors, administrators, trustees and others to appoint the Public Trustee to act in their stead or to discharge their duties; and empowers the Public Trustee where he is entitled to a grant of probate or administration of an estate which he estimates to be worth less than £400 to proceed by the alternative method of an election to administer.

Education (**Patriotic Ceremonies**).—No. 4,768 has an especial significance at the present time and affords a small means of measuring the real feeling of this State. It requires the regular observance by State school pupils of a prescribed patriotic ceremony and loyal declaration. The declaration is in this form: "I love God and my country; I honour the Flag; I will serve the King and cheerfully obey my parents, teachers and the laws." The flag referred to is the Union Flag, the Australian Blue Ensign or the Australian Red Ensign. Disciplinary action may follow against any teacher who refuses to direct or conduct the ceremony.

Dog Racing.—The substance of No. 4,769 may be briefly stated. It limits the number of grounds on which dog races may be held and the number of days on which and the hours during which dog races may be held on such grounds, and requires the licensing of promoters of dog races on them. Provision is made for the issue, renewal and transfer of licences, fees, penalties and the lodging of returns.

State Electricity Commission.—The interest of No. 4,770 lies in the reversal of policy contained in it. By the Act of similar title 1933 (No. 4,197) (see Rev. of Leg., 1933, p. 103) the Commission was prohibited from engaging in the usual trade in electrical apparatus. This Act restores the liberty, and allows the Commission and other undertakers to install wiring, fittings and the like, and to finance the purchase of electrical apparatus or the installation of wiring, etc.

Industrial Life Assurance.—No. 4,773 implements more of the recommendations of the Royal Commission set up to enquire into the subject, which has already seen the fruition of some of its proposals (see Rev. of Leg., 1938, p. 85). It prevents the avoidance of industrial life assurance policies on the ground of any incorrect statement written by any agent or servant of the insurance company in any proposal for assurance, unless the company proves that the proponent in fact made such statement; requires the insertion in industrial life assurance policies of certain statements as to bonuses, forfeiture and right to paid-up policies and to surrender values; and requires premium receipt books to be issued, and prescribes the entries to be made therein and the conditions on which any such book and certain other documents may be taken possession of by the company.

The Act also provides for the cancellation of industrial life assurance policies on prompt objection being taken thereto ; renders void agreements whereby the guarantors of agents of a company are required to pay the amounts of commissions repayable by agents on account of lapsed policies, as well as provisions in agreements whereby the production of a certificate signed by an officer of a company is deemed conclusive evidence of the amount of the indebtedness of any agent to the company ; provides for the prohibition of the issue of industrial life assurance policies by companies the financial affairs or arrangements of which are unsatisfactory ; regulates accounts, financial statements and the distribution of profits of industrial life assurance companies ; and requires information with respect to industrial life assurance business to be furnished to the Minister.

Police Offences.—No. 4,776 contains provisions for two purposes, the one relating to the prevention of soliciting for prostitution, the other to the suppression of brothels. In the first regard, accosting in a public place has now been made an offence, along with the previously existing offences of importuning and soliciting, and increased penalties have been provided. In the second regard, the substance of the two Imperial Acts 48 and 49 Vict. c. 69, s. 13, and 2 and 3 Geo. V, c. 20, s. 4 has been adopted, and tenants and owners of premises and their agents are punishable for knowingly permitting premises to be used as a brothel or for knowingly letting the same for that purpose.

Pawnbrokers.—No. 4,785 is an amending Act which amends the provisions of the principal Act in relation to the issue of pawnbrokers' licences ; doubles the fee payable on the issue of such a licence ; reduces the maximum rate of interest chargeable by pawnbrokers, and amends the provisions relating to the period for which pledges are to be kept by pawnbrokers for redemption, and the sale by auction or other disposal of unredeemed pledges. Lastly, the Act provides for the entry by authorized persons without warrant upon pawnbrokers' premises, the inspection of articles and documents therein, and the seizure and return of such articles.

Soil Conservation.—No. 4,786 is an important Act. Its objects are the prevention and mitigation of soil erosion, the promotion of soil conservation and the utilization of lands in such a manner as will tend towards the attainments of these objects. To those ends the Act provides for the constitution of a Soil Conservation Board, the immediate functions of which are to carry out surveys, investigations, experiments and demonstrations in respect of soil erosion and reclamation, to record and publish the results thereof, to give information, instruction and assistance to landholders in respect of soil erosion, soil conservation and reclamation, and to co-ordinate the policies and activities of Government departments and public authorities with respect to the alienation, occupation and utilization of Crown lands and with respect to soil conservation and reclamation. The Board as far as practicable is to carry out its functions through certain departments of Government, all of which are represented on the Board.

Further, the Act provides for an annual report by the Board, and requires the Board within two years after the commencement of the Act to make a special report containing detailed recommendations as to any further legislation required to carry out the objects for which the Board is constituted.

Lastly, provisions made for enquiries and inspections, for the appointment and functions of regional advisory committees ; and for the invitation of experts to attend meetings of the Board.

Companies.—No. 4,790 is similar to two previous Acts of limited duration which have ceased to operate (*Rev. of Leg.*, 1934, p. 91, and *Rev. of Leg.*, 1935, p. 84), but unlike those Acts the duration of this Act is unlimited.

The Act authorizes the Governor in Council, without any application made in that behalf, to appoint inspectors to investigate and report upon the affairs of certain companies. Provision is made for payment from consolidated revenue of the costs of investigations, for the conduct of investigations and for penalties for hindering investigations. During the investigation of the affairs of any company certain actions and proceedings by the company and certain actions and proceedings on instruments negotiated by the company are suspended. The Supreme Court is empowered to wind up any company on the petition of the Attorney-General at any time after a report has been made in respect of such company by inspectors appointed under the Act.

1941.

EIGHTY-TWO Acts were passed in 1941 by the State of Victoria in the second session of its Thirty-Fourth Parliament. As natural in times of emergency, they exhibit little enterprise towards novelty, and the *cacoethes legisferendæ* was rather diverted into overhauling a number of local Acts. The following 16 measures deserve attention:—

Medical (Pharmaceutical Chemists).—No. 4,804 carries a little further into professional qualifications the principle of reciprocity. It empowers the Pharmacy Board of Victoria to accept in lieu of any part of the prescribed pharmacy course (except the final examinations) a course of pharmaceutical training in Victoria or elsewhere which is of a substantially equivalent standard.

Betting.—No. 4,817 is an Act, which, in view of local proclivities, is particularly stringent. It has three main provisions. In the first place, it provides for the apprehension with or without warrant of persons who are found committing the offence of street betting, and who refuse to give their names and addresses or who give names and addresses which a member of the police force reasonably suspects to be false. In the second place, it extends the interpretation of the word "street" to include premises other than private dwellings, which albeit an unnatural meaning is nevertheless highly useful for the suppression of starting-price betting. Lastly, and this is an equally severe blow to those who carry on such operations, it prohibits the communication of betting information from race-courses during race meetings.

Water.—No. 4,837 is an amending Act, which introduces minor alterations in regard to minor matters relative to the supply of water by water authorities. In the broader sphere it contains a number of interesting provisions, such as an authority to the State Water Commission to hold competitions for irrigated farms and to award prizes of water; an authority to the same body to determine at the request of the owner of the land or tenement concerned that certain arrears in respect of water sales shall be a charge on the land or tenement and payable by instalments; and, lastly, provision that extra water rights may be apportioned to owners or occupiers of land under intense culture in any irrigation and water supply district whether or not such land is commanded by gravitation with water from the works.

Marriage.—No. 4,839 was passed to meet the hardship involved by an unwitting failure to comply with the provisions relating to the celebration of marriage, which had been disclosed in some actual cases. It permits the declaration of the parties before marriage to be taken by a minister of religion qualified to celebrate marriages, the Government Statist or a registrar of marriages, irrespective of whether such particular person subsequently officiates at the marriage, and gives retrospective as well as prospective effect to this provision. Further, the Act provides that marriages, whether past or future, shall not be or be deemed to have been invalidated by the fact that an unqualified person has taken the declaration if either of the parties *bona fide* believed such person to be qualified, and renders unqualified persons taking such a declaration guilty of a misdemeanour.

Goods.—No. 4,841 is in line with a notable tendency of modern legislation towards the simplification of proof in that it provides that in any prosecution relating to merchandise marks or trade descriptions the certificate of an analyst shall be sufficient evidence of the facts therein stated unless the defendant gives notice that he requires the analyst to be called as a witness.

Powers of Attorney (War Service).—No. 4,848 is a short Act authorizing the Public Trustee to accept and exercise powers of attorney given by persons engaged on war service where the power cannot otherwise be exercised because the donee thereof is dead or incapacitated.

Dogs.—No. 4,856 is an Act which extends the interpretation of " owner " of a dog (so far as relates to offences against the Dog Acts) so as to include a lessee and a person who has had possession and exclusive control of the dog for not less than 14 days. It provides that proof that any person is the occupier of any house or premises or the part of any house or premises where a dog is usually kept shall be *primâ facie* evidence of ownership: further, it imposes penalties upon the owners of greyhounds which are not muzzled and leashed when off the owner's premises, upon the owners of dogs found by night in certain areas not muzzled or leashed, and upon the owners of dogs found not muzzled in railway trucking yards when sheep are there present.

Registration of Births, Deaths and Marriages.—No. 4,858 makes provision for the legitimization in Victoria of a child born outside Victoria or whose father is absent from Victoria and for the legitimization of a child by the mother where the father is unable to apply owing to injuries, disease or mental disorder. In addition, it removes the limitation of time for correction of errors in registers, and empowers the Government Statist and every registrar, subject to appeal to the Minister, to refuse to cause a search to be made or to give a certified copy of a registration of birth, death or marriage where the applicant's reason for requiring such a search to be made or copy to be given is, in the opinion of such Statist or registrar, insufficient.

Public Charitable Trusts.—No. 4,865 amends the law relating to certain charitable trusts so as to assist in the execution of the real purpose of the trust. It empowers the Supreme Court or a judge thereof to grant leave to the trustees or other persons administering the trust funds of certain public charitable institutions (*e.g.*, hospitals, churches, educational establishments) to apply such funds for further purposes necessary or desirable to carry out the purposes of the trust or to make them fully effective, and also to apply the trust capital to meet expenses connected with such purposes where payments pursuant to the trust are inadequate.

Health.—No. 4,867 contains a number of heterogeneous amendments of the principal Act. These amendments defy any simple classification ; they contain a variety of provisions, such, *inter alia,* as those relating to hide or skin stores, abattoirs, the interpretation of " public building," meat inspectors, fire protection in public buildings and the registration of cinematograph operators.

Local Government.—No. 4,869, too, contains a number of unrelated amendments pertaining to local government. Among the many matters covered are the following: Unnaturalized aliens are disqualified both as municipal councillors and as voters at municipal polls ; persons elected as councillors are required to take an oath of allegiance ; church halls, ministers' residences and certain other buildings used in connection with churches are in certain circumstances exempted from municipal rating, and churches and certain schools and charitable institutions, which were previously exempt from municipal rating only if used exclusively as such, may now be used for certain other purposes of the religious, educational or charitable body concerned without becoming liable to municipal rating ; the period for which default in the payment of rates must have continued before vacant land upon which the rates are charged may be sold by the council is reduced from ten years to seven years ; and provision is made for the establishment by councils of standard survey marks in streets and roads and for the fixing of the alignment of streets and roads.

Moneylenders.—No. 4,872 renders future contracts for repayment of money lent by moneylenders at any rate of interest exceeding 48% legally unenforceable and makes any moneylender lending or offering to lend money at such a rate of interest guilty of an offence. The Act also prohibits registrations or transactions relating to loans otherwise than in the moneylender's authorized name and at his authorized address and further restricts advertisements by moneylenders.

Factories and Shops.—No. 4,874. This Act makes important amendments to the provisions of the principal Act dealing with Wages Boards and their determinations, and provides for the establishment of an Industrial Appeals Court and for its powers and functions. Most of its provisions are based on the system of Wages Boards hitherto obtaining in this State, and the constitution of those Boards is altered with the aim of having specialists as the representatives of both employers and employees upon it. The new Industrial Appeals Court, of which the president is to be a County Court judge, is to have as its main function hearing of appeals from the determinations of the Wages Board, and the chief amendment made in regard to the scheme of appellate jurisdiction is rather in the establishment of a new court than in any of the existing functions of the old court. The details relating to its powers can best be sought in the Act itself, for properly to appreciate them requires a little knowledge of the industrial law of Victoria.

State Development.—No. 4,875 provides for the establishment of a State Development Committee, the function of which is to enquire into and report to the Governor in Council upon the economic, industrial and rural development of the State, the decentralization of industrial activities and distribution of population, the amelioration of industrial and rural conditions, and the organization and development of industries to meet conditions arising during and after the present war. Ancillary to these purposes, the Act contains provisions as to the constitution of the Committee and as to its various powers and duties. So far the Act has been little more than a dead letter, for early this year it was decided to suspend its operations for the duration.

Imprisonment of Fraudulent Debtors.—No. 4,876 continues the modern practice of eyeing indulgently the devices adopted by fraudulent debtors. In respect of proceedings in all courts this Act abolishes one of the grounds on which an order for the defendant's committal to prison might previously have been made, namely, the ground that the defendant wilfully contracted the liability in question without reasonable expectation of being able to discharge the same. Minor amendments are at the same time introduced into the principal Act, namely, that in unsuccessful applications for an order the court may give costs against the applicant, and that in proceedings in petty sessions the court shall consist of a police magistrate.

Farmers' Protection.—No. 4,877 replaces the Act of the same name passed the previous year (No. 4,737), which it repeals, but it does not affect agreements under seal made pursuant to that Act. It possesses the same powers of relief but proceeds on a somewhat different principle. It divides debts of farmers into two classes—those incurred before a certain date, called "old debts," and those incurred after that date, called "new debts."

As to any particular old debt, the Farmers' Debts Adjustment Board is empowered to issue a limited stay order to a farmer who applies therefor. After the issue of such a stay order the Board may, if the farmer has other debts, issue a general stay order relative to all old debts of the farmer, or, subject to the Board's first calling a meeting of creditors, to all old debts and all new debts of the farmer. General stay orders relative to new debts are not to be issued except in special circumstances.

Stay orders, whether limited or general, have the effect of rendering void during their operation all actions, executions, processes or proceedings commenced, proceeded with or put in force against the farmer or his property in respect of the debt or debts to which the order relates or in respect of any security therefor. In addition, the calling of a meeting of the farmer's creditors pursuant to the Act has the effect of temporarily imposing a similar moratorium in respect of all the debts of the farmer.

Behind all this type of legislation lies the object of forcing an arrangement that is as just and equitable as the circumstances allow for all parties concerned, and so this Act provides, as its predecessors did, that after the issue of a stay order the Board is to endeavour by negotiation with the farmer and his creditors to secure an adjustment of the farmer's debts. During the operation of a general stay order the Board is empowered to exercise full control over the farmer's income.

The Act, which is expressed to bind the Crown, is completed by the usual machinery provisions together with a section preventing any contracting out of the Act.

7. WESTERN AUSTRALIA.*

DURING the year fifty-five public and one private Acts were passed.

Agricultural Products.—No. 6 extends the definition of "agricultural products" in the principal Act to cover fruit trees and fruit vines. The definition of " lot " is altered to include " fruit trees or vines whether sold singly or in quantities."

Bills of Sale.—No. 52 excludes certain chattels from a bill of sale by way of security. Beds and bedding and household furniture to the value of £10, implements of trade to the value of £15, and all family portraits and photographs are excluded. Any person seizing excluded goods is liable to a penalty, and may be ordered also to pay damages.

Builders' Registration.—No. 43 provides, chiefly, for the registration of companies and local authorities. It is made compulsory for local authorities to furnish to the Board full particulars of the building permits issued. A right of appeal is provided for any applicant whose application for registration is refused by the Board.

Bush Fires.—No. 53 provides for the creation of the Rural Fires Prevention Advisory Committee, of nine members, a third of whom are appointed on the recommendation of the Executive Council of the Road Board Association of Western Australia, Inc. The Committee is empowered to report to the Minister on various matters, including the best methods for the prevention and extinguishing of fires. S. 9 of the principal Act is amended to make more extensive provision for the creation of fire breaks. The Act requires precautions to be taken with respect to motor vehicles equipped with producer-gas apparatus, so as to prevent the escape of sparks, live coals, etc. The sale and use of certain kinds of matches may be prohibited, and restrictions are placed on the lighting or using of fires in the open air during specified periods. A new section, 14A, imposes conditions in regard to the burning of tomato plants in specified districts. The Conservator of Forests is empowered to requisition the creation of plough or fire breaks. Reports must be furnished by local authorities to the Minister once a year, giving information concerning fire-control personnel, fire-fighting equipment, etc.

Civil Defence (Emergency Powers).—No. 26 makes provision for the taking of precautions for the protection of persons and property from injury or damage in the event of hostile attack during war-time. A Civil Defence Council is established, to the members of which payments and allowances may be made. The Governor is given wide regulation-making powers, and may enter into an arrangement with the Commonwealth on any matter necessary or relevant to the purposes of the Act. Powers and duties may be conferred on Ministers, the Council itself, departments, local authorities, etc. Powers are granted to local authorities with respect to precautions for protection against air raids or other hostile attack. The costs incurred may be borne by the funds and revenue of the local authority to whom borrowing powers are granted. If a local authority defaults in any power or duty conferred by the Act, the Minister may exercise such power or perform such duty and debit the local authority with the cost. The Crown is exempt from liability except for compensation for property used or taken. The Act is limited for the period of the war and six months after.

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* Abridged from the Australian Legislative Digest.

Coal Mines.—No. 3 increases from 1s. to 1s. 6d. and from 6d. to 9d. respectively the contributions of adult and boy workers in the coal mines of the State, to the Coal Mines Accident Relief Fund, and validates contributions made prior to the commencement of the Act.

Elections.—No. 18 prohibits nomination either for a Council or an Assembly election if the nominee is, prior to and until the hour of nomination, disqualified from being elected. A heavy penalty is provided for a breach of this provision. If the candidate dies before polling day the electoral officer, upon notice, is to endorse the writ and return it to the clerk of the writs. If the candidate dies on polling day a similar procedure is to be followed. In either event, any votes cast must be destroyed in their unopened boxes. A fresh writ must then be issued and the roll used in the first election may be used in the second election without amendment. If no candidate is nominated for an election, or if no candidate is returned as elected, the election shall be deemed to have wholly failed and a new writ is to be issued.

No. 47 repeals s. 66A of the principal Act which permitted a member of either State House to resign and contest a Federal election with the right to have his State seat restored without a poll if he failed in the Federal contest.

Escheat.—No. 45 repeals some ancient ordinances dealing with escheat and provides a simpler scheme for obtaining an order of escheat and dealing with property the subject of the order. Where any property has escheated to the Crown, an application may be made by the Crown Solicitor to a judge for an order of escheat. Notice of the application has to be given and any person claiming title to the property may appear and support his claim. The court may declare the property has become the property of the Crown by way of escheat, and may be sold and the proceeds applied to consolidated revenue. A person who subsequently proved a legal right to the property may receive its value from the Treasury, and, provided no legal claim is lodged within twelve months from the date of the order of escheat, persons with moral claims may make application to the Governor. Machinery clauses enable the Sheriff to execute a conveyance or transfer of the escheated property which is to be accepted by the Registrar of Titles.

Feeding Stuffs.—Manufacturers and importers of manufactured food for stock, and by-products, are obliged to register such goods, and the Minister is obliged by No. 20 to have a list compiled which may be published in approved journals. Vendors of manufactured food for stock and by-products must affix labels to packages and give invoices. The Minister is empowered to appoint inspectors.

Fisheries.—No. 35 provides for the appointment of a deputy chief inspector of fisheries. Additional powers are given to inspectors with respect to the requisitioning of boats, etc. The licence fees for boats are altered to £1 for boats not exceeding 24 feet, and £2 for those over that length. Persons selling fish at a fish market are required to furnish a statement each month to the Chief Inspector showing the quantity of fish dealt with, and the waters in which it was caught. The main new provisions deal with the creation of trout acclimatization districts and societies. Registered societies may have property vested in them and may purchase land. They are obliged to make a statement of operations and accounts, and their registration can be cancelled for breach of the Act or regulations. New sections with respect to persons charged with being in possession of fish taken in contravention of the Act and persons found on waters with prohibited net or implement, provide that engines, nets and similar gear of offenders may be forfeited.

Growers' Charge.—No. 54 reserves to the grower of wheat and oat crops marketed for grain, which are subject to a bill of sale or other security, an interest in the crops by creating a charge in his favour subject to priorities. The extent of the charge is 3s. per acre in respect of the area sown up to 500 acres, and 1s. per acre on so much of the area as exceeds 500 acres. The charge is not itself to be charged or assigned by way of security. In the case of share farmers, any moneys accruing are to be divided on a basis of proportion to their interests in the farm. The growers are prohibited from contracting out of the Act.

Income Tax.—No. 14 incorporates the Income Tax Assessment Act, 1937–1939, and imposes income tax at the same rates as in the previous year. Where the amount of the taxable income is £1 the rate of tax is 9.01 pence, and increases uniformly by .01 of a penny for every pound increase in taxable income until the income reaches £4,500, when the rate is 4s. 6d. in the £.

There are special rates for companies. The rate for a company other than a life assurance company is 2s. 6d. in the £ of taxable income, and for a life assurance company 2s. 3d. in the £. The rate payable by a company in interest under s. 123 of the Income Tax Assessment Act, 1937-1939, is 2s. in the £ of interest paid or credited. The tax payable on racing stakes is 4d. in the £.

No. 12 exempts from taxation the pay and allowances earned by any person enlisting in the naval, military, or air force for service outside Australia. It also provides that where goods exported by a resident of Western Australia to a place outside Australia and are there sold by him or a branch of his business, the sale price is assessable in Western Australia unless tax has been paid in the country of sale. Freight earned by shipping companies, where rebates are allowed (such as on the carriage of some primary products), is to be assessed on the net amount retained by the shipowner. Re-insurance with a non-resident of the State is excluded from allowable deductions and is not to be included in the assessable income of the person carrying on the business of insurance outside the State. A new section is inserted with respect to persons leaving Australia, and the Commissioner is empowered to issue a certificate that there is no objection to departure when he is satisfied a person is not liable to pay income tax ; has made satisfactory arrangements for payment ; or that the tax payable is irrecoverable. Provision is made to meet the eventuality of an arrangement being made between the Commonwealth and the State with respect to the uniform use of tax stamps, and the Governor is empowered to arrange with the Governor-General for the use by the State of tax stamps prepared and placed on sale by the Commonwealth Authority.

No. 10 repeals s. 3 of the principal Act and inserts a new section extending the rates for deductions from wages and salaries to meet income tax. The following deductions are now provided for, the rates being per £ and per fraction of a £ over 10s.: 6d. where the wage or salary does not exceed £8 per week ; 9d. on amounts between £8 and £10 ; 1s. on amounts between £10 and £12 ; and 1s. 6d. on amounts over £12.

Land Tax.—No. 13 re-imposes the rates of land tax which operated in the previous year. The only variation is that the minimum amount of tax payable is increased from 2s. 6d. to 5s. The tax is made operative until altered by Parliament, instead of for the usual period of twelve months.

Legitimation.—No. 39 provides for the registration of illegitimate children where the father has married the mother since the birth of the child ; or, having married the mother, dies or becomes insane before he is in a position to make application for registration of the necessary declarations provided by the Act.

Margarine.—No. 36 regulates the manufacture and sale of margarine and repeals the Butterine Act. Provision is made for the appointment of inspectors who are empowered to take remedial action with respect to scales, measures, churns, vats, etc., which are found to be defective. Returns of margarine and other substances may be required by the Minister. The manufacture of margarine is prohibited unless the manufacturer is licensed. No licence for a margarine factory shall be granted for any premises within one hundred yards of a dairy produce factory. The holder of a cooking margarine licence is required to sell the product in lumps of not less than 14 lb. The Minister may declare the maximum aggregate quantity of table margarine to be manufactured in any year (provided such quantity, otherwise than for manufacture, does not exceed 364 tons), and the maximum quantities to be manufactured by individual licencees. Margarine shall not contain any butter fat, but the proportions of beef fat or mutton fat, or both combined, and other substances included in margarine are specified. Table margarine and cooking margarine must be clearly labelled according to its class. Notices are to be displayed in shops, stores and other places where margarine is sold.

Medical Profession.—A new subsection added by No. 51 to s. 11 of the principal Act of 1894 provides for the registration of any person who satisfies the Board that he is of good fame and character and has held a certificate of regional registration for a period or periods aggregating seven years or more. This registration is subject to the Minister's decision that it is in the interests of the general community of the State. A further addition, s. 11A, deals with the registration of persons for the practice of medicine and surgery in certain areas. If the Governor is satisfied that the residents of any area are not adequately provided for in respect of medical or surgical services, or certain hospitals required specified medical officers, a proclamation may declare the areas or hospitals to be regions within the meaning of the section. When an area is declared a region, the Board issues a certificate of regional registration to any person with suitable qualifications. If the Board decides that none of the applicants is suitable for regional registration, the local authority or the Minister may appeal to a judge of the Supreme Court in Chambers. The decision of a judge on the matter is final. When a certificate of regional registration is issued, the holder is, to all intents and purposes, a medical practitioner registered under the Act.

Mine Workers' Relief.—No. 22 makes an adjustment in regard to contributions to the fund consequent on a change from twice-monthly to fortnightly wage payments, but does not alter the amounts to be contributed. Miners who cease work underground after being notified that they are suffering from silicosis, and are registered for benefits, are required to continue their contributions. They were formerly exempt from such payments. The Board, however, has the right to relieve a miner of this liability if it is satisfied that he is unable to pay his contributions on the grounds of unemployment, illness or accident.

No. 4 suspends the liability of mine workers whilst on war service to contribute to the Mine Workers' Relief Fund.

No. 5 authorizes certain payments by the Mine Workers' Relief Board out of the Mine Workers' Relief Fund as benefits payable under the Mine Workers' Relief Act, 1932-1934.

The necessity for this Act arose out of the fact that persons named in the schedule were entitled to claim under the Mine Workers' Relief Fund but died before they had made a claim. When their widows made application for payment, questions arose as to the authority of the Board to make the payment.

Municipal Corporations.—No. 41 amends the principal Act to provide that a municipal council is deemed to be properly expending money when it contributes to any fund established for any patriotic purpose.

Native Administration.—No. 37 makes it an offence for any native to ask, solicit or otherwise attempt to procure any other person to obtain fermented, spirituous or intoxicating liquor or opium.

Optometrists.—No. 33 creates for the first time in Western Australia an Optometrists' Registration Board, which is made a body corporate. The members are appointed for a term of three years, and may receive fees and expenses in cases where a member of the Board acts as examiner and when attendance at meetings involves expenses. A register of optometrists has to be kept, it must be open for inspection at the office of the Registrar and copies are to be published annually in the Government *Gazette*. Registered optometrists may be suspended or struck off the register if the Board is satisfied that offences have been committed either in the obtaining of the registration or with respect to the conduct of the person concerned. The Board has power to require attendance at enquiries by summons, and may suspend a registered optometrist or annul such suspension. A right of appeal to the Supreme Court is given from a decision of the Board. The practice of optometry by unregistered persons is prohibited. Persons practising as optometrists or opticians at the commencement of the Act are allowed to continue practising for six months after commencement of the Act, after which they must be registered. Annual licence fees must be paid by registered optometrists and failure to pay renders the defaulter liable to be struck off the register. The Board is empowered to make rules prescribing the course of training, lectures, examinations, etc. The executor or administrator of a deceased optometrist may continue the practice for a limited period. The use of drugs as a method of measuring powers of vision is prohibited.

Petroleum.—No. 8 repeals ss. 8, 15, 16, 17, 18, 37, 40, 43, 47, 51, 52, 53, 67, and 68 and the schedule in the principal Act ; adds definitions for " casinghead petroleum spirit " and " natural gas " ; and provides for the registration of transfers, subleases, etc. The Act prohibits exploration, prospecting and mining for petroleum except under a permit. It limits the area of land for which a permit to explore may be issued to an area not less than one thousand square miles, and provides for the permit holder to execute a bond for £1,000. A person may hold any number of permits. A licence to prospect shall not be granted in respect of an area of more than 200 square miles or, except with the approval of the Minister, less than 8 square miles. The fees for licences to prospect are 5s. per square mile, with a maximum of £12 10s. in the first year and double the amount in each subsequent year. The shape of a petroleum lease shall be a rectangle as nearly as possible, and the lessee is obliged to deposit a bond of £1,000. The rental is fixed at £10 per annum for every square mile, or portion, comprised in the lease. Royalties (which are to be fixed by the Minister at not less than 5 per cent. or more than 10 per cent.) are payable on the crude value of crude petroleum, casinghead petroleum spirit and natural gas produced or obtained from the lease. Licencees and lessees are obliged to maintain apparatus and wells in good repair and condition and must control the flow and prevent the escape or waste of petroleum.

Registration of Firms.—No. 32 provides for the prohibition and regulation of the use of certain firm names and certain words in firm names. Firms and persons are prevented from using the words set out in the Act in a firm name. These include the words " Royal," " King," " Queen," " Crown," " Empire " and " Imperial." The Governor may remove this prohibition by order in council. The provisions do not apply to firms registered prior to the commencement of the Act, except with respect to the words " Commonwealth " and " State." The Governor is not permitted to give his consent if the use of the words is likely to convey the impression that the firm or person is authorized or supported by or connected with any Government within the Empire.

Sale of Land.—Vendors of land selling under a contract of sale are by No. 46 obliged to notify the purchaser in writing before the execution of the contract of the existence of any mortgage or encumbrance, lien or charge on the land. Except under certain conditions, the vendor is not to encumber land after entering into a contract of sale. Where the purchaser refuses to consent to a mortgage, the vendor may appeal to a court and the court has discretion to make any order which it deems fit in the circumstances. Proceedings taken under the Act do not prejudice any civil rights or remedies.

Street Collections.—There is provision by No. 55 that before a collection can be taken up in the metropolitan area permission of the Chief Secretary must be obtained. A definition of " public street " includes doorways, openings, lanes, etc., adjoining or adjacent to streets. Penalties are provided for breaches of the Act, which include the use of badges in any unauthorized way.

Tramways.—No. 30 terminates the obligation imposed on the Treasurer by the provisions of subs. (1) (a) of s. 8 of the Tramways Purchase Act, 1912, to pay 3 per cent. of the gross earnings of the tramways to the local authorities.

[It is hoped to publish the review of 1941 in the next issue.]

8. PAPUA.

FIFTEEN Ordinances, consisting mainly of minor amendments and supply Ordinances, were passed in 1940.

Liquor.—No. 10 amends the Liquor Ordinances 1911–1935 by requiring every publican to provide and maintain upon his licensed premises " an adequate dining-room equipped with appliances requisite for serving meals to guests." Failure to do so renders him liable to a penalty not exceeding £50. He must also " cause meals to be prepared, cooked and served upon his licensed premises for any person requiring the same " within prescribed hours. Failure to pay for it on the part of the person supplied with the meal " without reasonable excuse " renders him liable to a penalty not exceeding £10. A similar penalty may be imposed for failure to pay for accommodation.

1941.

FIFTEEN Ordinances, including several dealing with financial matters, were passed in 1941.

Dentists.—No. 4 provides for the registration of dentists.

Water.—The supply of water to Port Moresby was the subject of No. 9.

Civil Service.—The law regulating the duties of native servants of the Crown is amended and consolidated in No. 10.

Matrimonial Cause.—The law relating to divorce and matrimonial cases is now contained in No. 12.

Native Labour.—The law relating to native labour is consolidated in No. 13.

IV. NEW ZEALAND.

[*Contributed by* J. CHRISTIE, ESQ., C.M.G., LL.M., Counsel to Law Drafting Office.]

THE Second Session of the 26th Parliament of New Zealand was opened by His Excellency the Governor-General on May 30, 1940; the Session ended on December 6, and the General Assembly was formally prorogued on December 1. In moving the adjournment on December 6, the Prime Minister (the Rt. Hon. Peter Fraser) referred to the frequent intervals of adjournment that marked the course of the Session, which he described as " prolonged and very difficult." " We have met," he said, " all the time under the shadow of the clouds of war, sometimes in moments of great anxiety, and all the time in a period of danger to the Commonwealth of which our country forms a part."

Thirty-one Public Acts, six Local Acts, and one Private Act were passed during the Session. Of the Public Acts one (viz., the Sea Carriage of Goods

Act) was formally reserved for His Majesty's assent, as being within the scope of the restrictive provisions of ss. 735 and 736 of the Merchant Shipping Act, 1894.

Owing to the fact that the New Zealand Parliament has not yet adopted any of the reserved provisions referred to in s. 10 of the Statute of Westminster, its powers with respect to shipping are still limited by the sections of the Merchant Shipping Act above referred to.

Most of the important legislation now under review is due to war conditions. Parliament was in little mood for the consideration of purely domestic concerns, though opportunity was taken to put on the Statute-book certain measures that had been " hanging fire " for some time. Of the Acts arising directly from the war there may be mentioned specially the Emergency Regulations Amendment Act and Acts amending and extending the scope of former War Pensions Acts. The taxation measures reflect war conditions. Many matters of importance have been dealt with by regulations made by the Governor-General in Council under the authority of the Emergency Regulations Act and other Acts.

Only the Acts that have some general interest are adverted to below.

Emergency Regulations.—No. 1 extends the power of the Governor-General in Council to make emergency regulations. The principal operative section is, in effect, an application to New Zealand of the Emergency Powers (Defence) Act, 1940. It is expressly provided in the section referred to that by such regulations provision may be made requiring persons to place themselves, their services and their property at the disposal of His Majesty. In the debates upon the Bill in the House of Representatives no exception was taken to the scope of the powers proposed to be conferred upon the Executive, but it was contended that a national (as distinguished from a party) Government should be formed. This step has not yet been taken,[1] but a War Cabinet of five Members has been formed, of whom two are Members of the National Party.

Financial Measures.—During the Session there were no less than four Finance Acts ; other financial measures include an amendment of the Land and Income-Tax Acts and the Annual Taxing Act ; an Excess Profits Tax Act ; and a National Savings Act. Part I of the first of the four Finance Acts to be passed (1940, No. 6) provides, *inter alia*, for the following matters: (*a*) the borrowing authority of the Government, for the purposes of the War Expenses Account, is increased from ten to forty million pounds[2] ; (*b*) the revenue of the War Expenses Account is increased by the proceeds of a National Security Tax (*infra*) ; an increased sales tax ; all death and gift duties received after March 31, 1940 ; a proportion (viz., 3/23rds) of income-tax revenue for the year ending March 31, 1941 ; (*c*) the several borrowing authorities of the Government for domestic purposes are increased by an aggregate of £18,000.000.

Part II of the Act imposes (as a National Security Tax) a charge of 1s. 8d. in the £ on all salaries, wages and other income. The National Security Tax is equivalent in amount to the Social Security Charge imposed by the Social Security Act, 1938, and is combined with that charge for purposes of collection.

Part III increases from 5 per cent. to 10 per cent. of the sale value of taxable goods the rate of the sales tax imposed by the Sales Tax Act, 1932-33 ; as stated above, the additional revenue is for the purposes of the War Expenses Account.

Part IV greatly increases the rates of death duties and gift duty. All revenues from this source now go towards the cost of the war.

Among the miscellaneous provisions included in the first Finance Act is one (1940, No. 6, s. 12) that seems to challenge the attention of constitutional lawyers. It relates to what is referred to in the section as " a common fund established for the purposes of any scheme for augmenting the salaries of members of the General Assembly or of any class of such members.'' The fund referred to was not established by statutory authority, but the nature of the fund is revealed by the section which provides that contributions made from his salary to the common fund by any Minister of the Crown shall be treated for income-tax purposes as expenses exclusively incurred in the production of his salary. The amount allotted from the common fund to any member of the General Assembly is deemed to be part of his income for purposes of income-tax, but is exempt from liability to the Social Security Charge and the National Security Tax.

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[1] March 10, 1941.

[2] Regulations under the Emergency Regulations Act in effect required all taxpayers (including trustees and agents) whose income tax for the preceding year exceeded £50, to subscribe to the 1940 War Loan the amount of their income tax, less £50.

From the constitutional viewpoint the significant feature of the scheme is that it imperils the independence of those Members of Parliament who are beneficiaries in the distribution of the fund.

In the Finance Act (No. 2) (1940, No. 19) there are at most only two sections that call for special mention. In s. 2 the Minister of Industries and Commerce is empowered to enter into contracts on behalf of the Crown with a view to developing the linen-flax industry. It was explained to the House of Representatives that the authority proposed to be conferred was, in the main, in response to a request from His Majesty's Government of the United Kingdom, it was stated that arrangements had been made for the planting of approximately 14,000 acres, and that eleven factories would be available for the manufacture of the resultant fibre into material essential for aircraft coverings. S. 13 confers a long-sought right on contributors to the several statute-created Superannuation Funds (viz., the Public Service, the Government Railways and the Teachers' Funds). Hitherto, on the death of a superannuitant leaving a widow surviving him, the widow might easily be reduced from comfort to penury, for her personal right to receive an annuity during widowhood was limited to £31 a year (*i.e.*, an original £18 from the appropriate Superannuation Fund, increased by a Government grant of £13). The law has now been altered to permit a contributor, on retirement, to elect to purchase an annuity for his wife or other approved dependant (to operate as from his death) by the voluntary surrender of portion of his retiring allowance. The Funds are protected by the requirement that in every case where an election is made the amount of the annuity shall be the actuarial equivalent of the amount surrendered from the contributor's retiring allowance. A subsidiary and somewhat speculative right of election enables a contributor to elect that, in the event of the death of his wife or other proposed annuitant during his lifetime, he will then surrender a portion or a further portion (as the case may be) of his retiring allowance. This subsidiary election forms the basis of an actuarially computed annuity to the annuitant if in fact the contributor dies first.

Nothing in the Finance Act (No. 3) (1940, No. 26) calls for special mention ; Part I of the Finance Act (No. 4) (1940, No. 30) provides for pensions for members of the Emergency Reserve Corps, and is dealt with (*infra*) under the heading War Pensions ; Part II will be adverted to under the heading of Social Security.

Land and Income Tax.—The Land and Income Tax Amendment Act (1940, No. 3) makes several important amendments of the law, but they are of domestic importance only and do not admit of any brief explanation. One provision of some general interest allows to a taxpayer who (under the scheme for the evacuation overseas of British children) has undertaken the maintenance of a British child the exemption for income-tax purposes to which he would be entitled if the child were his own.

Another section of some interest is s. 4, which extends to certain unincorporated State trading departments a liability to pay income-tax (a liability that was formerly limited to incorporated Departments). The purpose of this extension is not to provide revenue (for any profits of the Departments concerned already go into the Consolidated Fund), but, in the words of the Minister of

Finance, to give " a more correct picture of these Departments as compared with private enterprise."

The effect of the Act, in conjunction with the annual taxing Act, is to increase substantially the taxation revenue, of which 2/23rds are diverted, by the Finance Act (1940, No. 6), to the War Expenses Account.

The Excess Profits Tax (1940, No. 22).—This is a somewhat complicated Act, but the principle underlying it has been stated in the following words: " No one shall, during the war period, and because of the abnormal conditions arising out of the war, receive from his business or profession any profits in excess of the amount which he might reasonably be expected to obtain under peace-time conditions."

Assessments of excess profit tax are to be made by the Commissioner of Taxes ; objections will be heard by a specially constituted Committee of three persons to be appointed by the Governor-General, with power, within certain specified limits, to fix the amount of the excess profits of the objector.

The National Savings.—No. 7 provides special facilities for the investment of savings. Two methods of investment are provided for, viz.: (*a*) investment by way of fixed deposit in the Post Office Savings Bank or in approved private savings banks ; and (*b*) investment in special Government securities to be known as National Savings Bonds. Provision was later made by the Finance Act (No. 4) for the collection, at the time of issue, of the Social Security Charge and the National Security Tax payable in respect of the accumulated income derived from National Savings Bonds. The income on a bond is represented by the difference between the price paid for the bond and the amount payable to the holder when the bond is discharged on maturity.

Social Security.—The Social Security Act, 1938[1], was amended by 1940, No. 5, and again by 1940, No. 30. S. 2 of Act 1940, No. 5, imposes on non-resident companies and on incorporated Departments of State a liability to pay the Social Security Charge imposed by the Act of 1938 (and in consequence a like liability in respect of the National Security Tax). " The idea," said the Minister in charge of the Bill, " is that non-resident companies operating here and using the wealth of the Dominion for the purpose of producing commodities and making profits in the Dominion shall be subject to these two taxes, in order to bring them into conformity with our New Zealand companies in that respect." S. 6 of the said Act extends the family benefits provided for by the 1938 Act by making such benefits payable in respect of two or more children in a family.[2] The original scheme was limited to families of at least three children. The most important alteration of the 1938 Act, however, was that made in respect of medical benefits by the Finance Act (No. 4) (1940, No. 30). The original Act contemplated the making of contracts between the Minister of Health and doctors for the operation of a " general practitioner " scheme. The amendment now made restores a right to freedom of contract between patients and doctors. Regulations have already been issued under the amended legislation, and medical benefits were nominally available to the public as from March 1, 1941. Up to the time of writing this review (March, 1941), there is no evidence of any general intention on the part of the medical profession to operate the scheme. The regulations provide for an annual capitation fee of 15s. per patient on a doctor's list (irrespective of whether or not any patient or potential patient actually requires treatment in the course of the year). The scheme is, in effect, still limited to a general-practitioner service (*i.e.*, it does not include specialist services rendered by recognized specialists). One of the objections to the scheme expressed by representatives of the medical profession is that the time is inopportune, having regard to the absence overseas of so many doctors engaged in military service.[1]

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[1] See *Rev. of Leg.*, 1938, p. 107.

[2] Further extended by 1941/4 to cases where there is only one child in the family.

War Pensions.—Several Acts were passed during the session amending and extending the operation of the War Pensions Acts passed in consequence of the last war.

The War Pensions Amendment Act (1940, No. 8) improves the rights of wives and children of former members of the Forces, by providing that, in considering the admissibility of a claim for a pension under the 1915 Act, made by or on behalf of a wife or child, no notice is to be taken of the date of the marriage of the member. The original provision (which has been altered from time to time, always with a view to improving the position of wives and children) recognized only marriages that were subsisting at the date of the disablement of a member or that took place within twelve months after his discharge, in accordance with a prior engagement to marry. None of the other provisions of 1940, No. 8, call for special mention.

The War Pensions Extension Act (1940, No. 9) provides in effect for the application of the 1915 Act and its amendments (including 1940, No. 8) to the present war and to services with the Forces (Army, Navy and Air) not connected with the present war. A distinction is made between service overseas in connection with the present war and service in New Zealand. Where the death or disablement of a member of the Forces occurs overseas in the course of the present war, the right of any claimant for a pension is not affected by the fact that such death or disablement may have been suffered by the member otherwise than in the course of his duties. Where, however, the death or disablement occurs in New Zealand, or occurs out of New Zealand but not during the present war, the claimant must show that it was attributable to service as a member.

The War Pensions and Allowances (Mercantile Marine) Act, 1940. This Act, in effect, extends the War Pensions Acts so as to provide for the payment of pensions in respect of the death or disablement as a result of the war of members of the New Zealand Mercantile Marine. Provision is also made for the payment of allowances in respect of the detention by the enemy of members of the Mercantile Marine.

To make the Act effective, regulations (under the Emergency Regulations Act) have been issued, authorizing the War Pensions Board to make certain presumptions, where definite information is not available as to the fate of a missing ship.

Part I of the Finance Act, No. 4 (1940, No. 30), extends the War Pensions Act so as to provide pensions in respect of the death or disablement, in the course of their duties, of members of the Emergency Reserve Corps (*i.e.*, the Home Guard and certain other organizations established for local protection).

Carriage by Air.—The Carriage by Air Act (1940, No. 15) has been passed to give effect in New Zealand to the Convention signed at Warsaw on October 12, 1929, for the unification of certain rules relating primarily to carriage by air of passengers and goods.

The Sea Carriage of Goods Act (1940, No. 31) has been reserved for His Majesty's assent in accordance with the requirements of the Merchant Shipping Act. It repeals the Act of 1922,[2] which was based on the Hague Rules, 1921. These rules were later amended, and the amended rules were substantially adopted by Great Britain in the Carriage of Goods by Sea Act, 1924, and have also been adopted by other countries, including the United States of America. The purpose of the present Act is to bring this branch of the law of New Zealand into substantial conformity with the law of Great Britain.

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[1] See 1941/14 for complementary scheme which operates automatically (*i.e.*, without requiring concurrence of medical practitioners). See p. 7, of 1941 *Review.*

[2] *Jour. Comp. Leg.*, Third Series, Vol. VI, Part II, p. 102.

1941.

The Third Session of the 26th Parliament of New Zealand was opened by His Excellency the Governor-General on March 12, 1941, and Parliament was formally prorogued on October 29 of the same year. Parliament did not sit continuously during this period, but adjourned on March 27 to enable the Prime Minister (the Right Hon. Mr. Peter Fraser) to accept the invitation to visit Great Britain that had been extended to him by the Right Hon. Mr. Winston Churchill and his War Cabinet. The Session was resumed on June 10, and Parliament continued to sit without further lengthy adjournment until its final adjournment on October 17, 1941.

During the Session 28 Public Acts, 8 Local Acts, and 1 Private Act were passed. The Private Act here referred to incorporates the Dominion Council of the Boy Scouts Association (New Zealand Branch).

The following review deals with only such of the Public Acts as may be regarded as having more than merely domestic interest.

Local Government.—The Local Elections and Polls Amendment Act (1941, No. 2) provides, *inter alia,* for: (1) The holding of all general elections of local authorities on a Saturday. (2) The use by voters of a cross within a square to indicate a candidate or a proposal for whom or for which a vote is cast.

The first matter may be regarded as a " by-product " of the " 40-hours week," which, in normal times, amounts in many industries to a working-week of five days. The holding of all local elections on Saturday will minimize the disturbance of industry by electioneering contests.

The adoption of the use of a cross within a square to indicate a voter's choice of a candidate or a proposal restores the procedure used prior to 1926 (see *Jour. Comp. Leg.*, Third Series, Vol. X, Part II, p. 108), when the method of striking out unwanted names or proposals was substituted for the use of a cross to indicate the voter's choice.

Since 1926, some local authorities have promoted special legislation adopting the " cross " system ; in consequence there has been considerable confusion, resulting in an increasing proportion of informal voting. The real difficulty lies, of course, in the fact that, before exercising their voting rights, voters fail to read the plain instructions printed on their voting papers, and for this there seems no adequate legislative remedy.

The Counties Insurance Empowering Act (1941, No. 6) empowers County Councils, with the prior authority of the Minister of Finance, to form a limited liability company to undertake the insurance of members of the company (presumably on a co-operative basis). The Act does not disclose the actual intentions of the promoters with respect to the formation of the company, but it was stated, in the course of debate, that the nominal share capital would be limited to £100,000 ; that the shareholding Councils would receive not more than the equivalent of 4 per cent. interest on paid-up capital ; and that, after adequate provision had been made for reserves, any profit would be applied towards a reduction of premiums.

Public Finance.—The Finance Act (No. 1) (1941, No. 4). By Part I of this Act, the Government's authority to borrow for war purposes is increased by £40,000,000 (bringing the present maximum up to £80,000,000).

Provision is also made for transferring to the War Expenses Account an amount representing 3/23rds of the revenue derived from income tax for the financial year ending March 31, 1942. A similar provision was made last year (1940, No. 6) with respect to income tax for the year ended March 31, 1941.

Part II amends the Social Security Act, 1938, by providing in certain circumstances for increased age-benefits, invalids' benefits, sickness benefits and family benefits. Family benefits (as provided for in the 1938 Act) were originally payable only in cases where a family comprised three or more children (in this respect repeating the provisions made by the Family Allowances Act, 1926) ; in 1940, the provisions were extended to families of two children ; the present amendment makes a further extension by providing for the payment of family benefits where there is only one child.

Public Accounts.—The National Development Loans Act (1941, No. 7) creates a new account within the Public Account, to be known as the National Development Loans Account. From time to time, as authorized by Parliament, moneys will be transferred from this account to other specified accounts in accordance with their several requirements. The statutory direction to transfer moneys from the National Development Loans Account will operate as an authority to the Minister of Finance to borrow the specified amounts in accordance with the procedure laid down by the New Zealand Loans Act. It is anticipated that the new system will result in a simplification in accounting and in administrative costs.

Criminal Law.—The Crimes Amendment Act (1941, No. 10) makes two alterations of major importance in the criminal law. In the first place it abolishes capital punishment for the crime of murder and substitutes the penalty of imprisonment for life ; it also abolishes the penalties of flogging and whipping.

Fair Rents.—The duration of the Fair Rents Act, 1936 (*Jour. Comp. Leg.*, Third Series, Vol. XX, Part II, p. 110), has been extended to October 31, 1942, by the Fair Rents Amendment Act (1941, No. 11).

Soil Conservation.—The Soil Conservation and Rivers Control Act (1941, No. 12) is a measure consisting of ten separate " Parts " and 170 sections. It is described in its Long Title as " An Act to make provision for the conservation of soil resources and for the prevention of damage by erosion, and to make better provision with respect to the protection of property from damage by floods."

The necessity of the legislation is disclosed in the following extract from the report of a Select Committee of the House of Representatives:—

> " New Zealand, owing to its configuration, its abundant rainfall, its rivers with generally short and rapid courses to the sea, and the uninformed destruction of its native plant life, is to-day peculiarly liable to damage by river-erosion, sheet-erosion, and other forms of soil erosion and deterioration. . . . The evidence before the Committee may be briefly summarized as attributing these evils in New Zealand to (*a*) increased flooding arising from increasing run-off of rainfall through destruction or degrading of plant cover ; (*b*) excessive burning ; (*c*) over-grazing and other phases of inefficient husbandry ; (*d*) damage by deer, rabbits and other pests.
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> " The Committee was informed that inter-departmental committees which were set up in various districts in 1937 recommended that nearly 4,000 square miles, or roughly 2,500,000 acres of land, in New Zealand should be withdrawn from occupation because of soil deterioration."

The Act consists largely of administrative details, and it is not possible to summarize them to any advantage. It provides for the establishment of a central co-ordinating authority called the Soil Conservation and Rivers Control Council, and of district authorities known as " Catchment Boards." The general function of the Catchment Boards is expressed to be " to minimize and prevent damage within their respective districts by floods and by erosion." The new authorities established by the Act are superimposed on existing organizations (*e.g.*, River Boards, Land Drainage Boards, County Councils, etc.), and there is no express interference with the functions or obligations of any of these bodies, but in the natural course of evolution and the process of co-ordination it is to be expected that some at least of these bodies will be found superfluous and in due course will go out of existence.

Standardization of Commodities.—The Standards Act (1941, No. 13) is " an Act to promote standardization in relation to commodities, processes and practices, and for that purpose to provide for the establishment of a Standards Council and to define its powers and functions.'' The general procedure, as outlined in the Act, is as follows: (1) the Standards Council, among its other functions, has authority to formulate specifications ; (2) the Minister of Industries and Commerce may declare any such specification to be a '' standard specification '' ; (3) the Minister may license any person to use in connection with any commodity, process or practice that conforms to a '' standard specification '' a '' standard mark '' (which is a certification trade-mark under the Patents, Designs and Trade-marks Act) ; (4) regulations may prohibit the sale of any goods or the use of any process that does not conform to a standard specification ; (5) the unauthorized use of standard marks, or of marks that may be mistaken for standard marks, is prohibited.

General Medical Services under Social Security Act, 1938.—The Social Security Amendment Act (1941, No. 14) is a further step towards the provision of '' medical benefits '' under the 1938 Act.

In the 1940 review it was mentioned that the right to freedom of contract between patients and doctors had been restored by the Finance Act (No. 4) (1940, No. 30), and that regulations in accordance with that Act had been made providing for the introduction of the '' panel system.'' This system has not proved generally acceptable to members of the medical profession, and the 1941 Act provides an alternative '' fee-for-service '' scheme, which, like its predecessors, is limited to the provision of a '' general medical service '' and does not include specialist services and certain other services that have been expressly excluded (some by the Act itself and others by regulations).

Under the new scheme (which came into operation on November 1, 1941) a doctor is entitled to claim from the Social Security Fund a prescribed fee for every visit or consultation. The basic fee (which may be increased by regulation, either generally or in special circumstances) is fixed at 7s. 6d. for each visit or consultation (with mileage fees, in addition, in appropriate cases).

A doctor is not obliged to accept payment from the Fund, but, if he does not claim from the Fund, he is debarred from recovering by action (but not from accepting) more than the prescribed fee. Where payment is made by or on account of the patient, otherwise than from the Fund, the person by whom payment is made is entitled to a refund of the prescribed charges from the Fund.

The new system does not oust the '' panel '' system, but the two continue side-by-side as alternative systems.

It would appear (from newspaper reports) that the local organizations of medical practitioners have recommended their members to adhere to their former methods and charges, but that they facilitate (by giving receipts and other information) claims for refunds that may be made against the Fund by or in respect of their patients.

Insurance Against War Damage.—The War Damage Act (1941, No. 17) makes inchoate provision for the insurance of property against war damage. The Act is to come into force on a date to be fixed by Proclamation.

The Act provides for the establishment of a body corporate called the War Damages Commission which is empowered to enter into contracts for the insurance of property against war damage.

Property that is insured with any insurance company against loss or damage by fire is automatically insured with the Commission against war damage to the same amount. Additional insurance or the insurance of other property is made the subject-matter of contract between the Commission and the owner of an insurable interest.

Rates of premiums are to be fixed by the Governor-General in Council. Premiums are to be paid into a special account in the Public Account (called the War Damage Fund) and claims are payable from the same fund. Any deficiency in the fund is to be met out of the War Expenses Account.

If there is a surplus in the fund after all claims have been provided for, it is intended that it be held for the purpose of granting financial assistance, in accordance with Parliamentary appropriation, to persons suffering loss or damage from earthquake or other natural disaster.

Taxation of Trading Banks.—The only provision of general interest in the Land and Income Tax Amendment Act (1941, No. 18) relates to the taxation of banking companies. Hitherto these companies have been assessed for income tax on the artificial basis of the monthly average of their total assets and liabilities (as disclosed in monthly statements published in the *Gazette*). Though this basis was probably fair enough at one time, it had, with steadily increasing rates of taxation, become burdensome and inequitable, and the law has now been altered so that in future banking companies will be assessed for income tax in the same manner as are other trading companies.

Parliament.—By the Prolongation of Parliament Act (1941, No. 24) the duration of the present Parliament has been extended by one year (*i.e.*, until November, 1942), unless in the meantime it is dissolved by the Governor-General in accordance with the provisions of the Constitution Act (15 and 16 Vict., c. 72).

Post-War Reconstruction.—The Rehabilitation Act (1941, No. 25) makes provision for the re-establishment in civil life of persons who have served with any of His Majesty's Armed Forces, for the reconstitution of war-time industries on a peace-time basis, and for incidental matters.

The Act is divided into two " Parts," the first dealing with the re-establishment of " servicemen " (an expression which includes men of the mercantile marine) in civil life, the second with " industrial reconstruction."

Under Part I, provision is made for the establishment of a National Rehabilitation Council and of a Rehabilitation Board. The Act contemplates the settlement of " servicemen " on the land and their establishment in other civil vocations, and makes provision for the acquisition of land for the purpose and for the grant of any necessary financial assistance. Provision is also made for the educational, industrial and vocational training of discharged " servicemen," and for their protection in proper cases against the enforcement of their civil obligations and the adjustment, if necessary, of their civil liabilities.

Part II (relating to industrial reconstruction) makes provision, *inter alia*, for the post-war cancellation of war contracts, for the transfer to peace-time industries of persons who have been engaged in war-work, for the establishment of new industries and for the extension of existing industries.

Moneys required for the purposes of Part I are made payable out of the War Expenses Account ; moneys required to finance schemes of industrial reconstruction under Part II are payable out of the National Development Loans Account.

Statutes Amendment.—The purposes intended to be served by " Statutes Amendment Bills " are discussed in the review of legislation for the year 1936, on p. 116 of Vol. XX, Part II of the Journal. The theory is that such Bills should be confined to relatively unimportant amendments of the law.

In practice, the test of the relative unimportance of the subject-matter gives place to the test of convenience.

In the Statutes Amendment Act (1941, No. 26) there are 86 amending sections, affecting more than 40 separate Acts. Many of these amendments are not unimportant in the sphere of domestic legislation, but, at the most, only two call for notice here.

By s. 40, the Legislature Act, 1908, is amended to permit of the appointment of women as members of the Legislative Council. The disqualification of women for election to the House of Representatives was removed in 1919 by the Women's Parliamentary Rights Act of that year.

The only other amendment of general interest included in the Statutes Amendment Act relates to appeals from decisions of licensing authorities in respect of motor-passenger services. The amendment is a tacit recognition of the fact that appeal authorities should be unbiassed in appearance as well as in fact. By the Transport Licensing Amendment Act, 1936, the Minister of Transport was made the sole appeal authority from the decision of licensing authorities, notwithstanding that the licensing authorities are themselves appointed by the Minister (in many cases one-man authorities), and that the Government is itself actively engaged in the business of transporting passengers by motor-omnibus. In practice, the Minister never personally exercized any but the final functions of the appeal authority, but acted always on the recommendation of one or more persons specially appointed by him to investigate the subject-matter of an appeal. The amendment that has now been made (ss. 81-86 of the Statutes Amendment Act) provides for the appointment of an appeal authority other than the Minister.

Compulsory War Loan.—By virtue of regulations made under the Emergency Regulations Act, 1939, all taxpayers whose income tax for the year 1940 exceeded £50 were required to subscribe to the " New Zealand Government War Loan, 1953 " an amount (speaking generally) equal to the amount of their income tax less £50. Failure to subscribe was made an offence punishable on summary conviction by a fine not exceeding the amount in respect of which default was made. By s. 11 of the Finance Act, No. 2 (1941, No. 27) an amount equal to 25 per cent. of the amount in respect of which default has been made by any person (if the default has continued to November 1, 1941) is declared to be a debt due to the Crown and recoverable as income tax. All amounts recovered under the section are made payable to the War Expenses Account.

V. WESTERN PACIFIC.

1. FIJI.

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FORTY-FOUR Ordinances were enacted during 1940, of which the following are the principal:—

Aliens (Landholding).—Ordinance No. 27 regularizes the position of aliens who have acquired interests in land in the Colony and regulates the future holding of land by aliens. An alien, who is defined as a person who is not a British subject and includes a company under alien control, may be granted a licence by the Governor in Council to hold land in the Colony as owner, tenant or mortgagee. The Ordinance provides that land held by an unlicensed alien will be forfeited to the Crown with certain exceptions. The Governor in Council is empowered to issue licences for aliens to hold directorships, shares or debentures of a company. The holding of property on trust for an unlicensed alien is prohibited.

Antiquities.—The preservation of articles of archæological and palæontological interest in the Colony is the object of No. 6, under which a Board of Trustees is established for administration.

Courts (Emergency Powers).—No. 21, which follows closely the Courts (Emergency Powers) Act of 1939, relieves certain persons from liabilities arising out of the non-payment of money and the non-performance of obligations where such non-payment or non-performance is directly or indirectly attributable to the war.

Crown Acquisition of Lands.—No. 24, which replaces an 1878 Ordinance, regulates the acquisition of land by the Crown for public purposes. The Governor is empowered to acquire any lands required for any public purpose, paying such compensation therefor as may be agreed upon or determined under the provisions of the Ordinance.

Markets.—The establishment and regulation of markets outside the boundaries of a town are controlled by No. 26, which follows closely the Markets Ordinance of Tanganyika.

Mental Treatment.—No. 8 amends and consolidates the law relating to persons of unsound mind and provides for their reception and retention in mental hospitals. It replaces an 1884 Ordinance and provides for the treatment of mental patients in accordance with modern requirements.

Native Land Trust.—No. 12 gives effect to a resolution passed by the Council of Fijian Chiefs asking that Government should control in the best interests of the Fijians all native land which was not required for their immediate use. The Ordinance vests the control of all native land in a Board consisting of the Governor, a Fijian, the Adviser on Native Affairs and the Director of Lands, and provides that the Board is to administer all such land for the benefit of the native owners. Power is given for the establishment of local committees in any district to advise the Board on any matters affecting native land within its own particular district. Native reserves are to be proclaimed and no land in a native reserve is to be alienated save that leases may with the consent of the Board be granted by native owners to Fijians. All land not included in a native reserve may be leased by the Board to applicants of any race, the rents and premiums received in respect thereof being paid to the native owners.

Prices of Goods.—No. 47 is a war-time measure enabling the prices of all goods offered for sale to be controlled. Machinery is provided for the appointment of local committees to scrutinize the prices of goods offered for sale in their districts and to make recommendations to a central committee. The actual prices of some goods may be fixed by the publication of price orders and the prices of all other goods are controlled by the provision that profit must not exceed pre-war profit. To ensure equitable supply and distribution in exceptional circumstances provision is made for compulsory sale by vendors and power of requisition and distribution by a competent authority.

Workmen's Compensation.—No. 23, which follows closely the Workmen's Compensation (East and West Africa) Model Ordinance, provides for the payment of compensation by employers to their workmen for personal injury by accident arising out of and in the course of their employment. A workman is defined, subject to certain exceptions, as any person who has entered into or works under a contract of service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise. The Ordinance does not apply to all forms of employment, but only to prescribed occupations, power being given to the Governor in Council to add to these occupations from time to time. The employer and the workman may agree in writing as to the compensation to be paid by the employer so long as the compensation agreed upon is not less than the amount payable under the provisions of the Ordinance, and such agreement can be made an order of the court. If the parties do not agree within the time prescribed, the workman may make application to the court for enforcing his claim. Provision is made for the payment of compensation into the court and the court is given power to order the apportionment of any sum so paid in among the dependants of a deceased workman.

[It is hoped to publish the review of 1941 in the next issue.]

2. KINGDOM OF TONGA.

[*Contributed by* H. E. MAUDE, ESQ., *H.B.M.'s Acting Agent and Consul.*]

1939.

THIRTEEN Acts were passed. There was no Act No. 1 in 1939. The series is numbered 2-14.

Wireless Telegraphy.—Act No. 3 authorizes the Premier, or anyone acting under his authority, to scrutinize wireless messages when it is in the public interest so to do.

Control of Lighting.—Act No. 4 empowers the Premier to make rules for the total or partial cessation of lighting in any part of the Kingdom on occasions of emergency or public danger.

Defence Force.—Act No. 5 provides for the formation of a Defence Force by applying Act No. 3 of 1923 of the Colony of Fiji *mutatis mutandis*. The Premier, in consultation with H.B.M.'s Agent and Consul, is authorized to take all necessary steps, which may or may not be published at discretion. This emergency legislation has since been replaced in effect by Ordinance No. 2 of 1939, which, however, does not expressly repeal it.

Emergency Powers (Defence).—Act No. 6, which is based on the Imperial Emergency Powers (Defence) Act (2 & 3 Geo. 6), empowers Her Majesty by Order-in-Council to make " Defence Regulations " for securing the public safety, the defence of the Kingdom, the maintenance of public order and the efficient prosecution of any war in which Her Majesty may be engaged, and for maintaining supplies and services essential to the life of the community.

Inquests.—Act No. 10 makes provision for inspection of the body by a medical officer before an inquest is held, the reduction from six to four in the number of the jury and for the admission of written evidence from a medical officer.

Trade Marks.—Act No. 11 provides for the registration of United Kingdom Trade Marks in the Kingdom of Tonga. It is similar in its provisions to Ordinance No. 3 of 1939 of the Gilbert and Ellice Islands Colony.

Consolidated Edition of the Laws.—Act No. 13 provides for the preparation of a consolidated and revised edition of the Law of Tonga, to be published in both the Tongan and English languages, the Chief Justice being appointed the commissioner for the purpose. The last consolidated edition of Tongan Law was published in 1928.

Ordinances.—Under ss. 7 and 8 of the Government Act, 1903, Her Majesty in Council is authorized to pass certain Ordinances which, upon promulgation, have the full force and effect of law until rescinded by the Legislative Assembly. Two were passed in 1939.

Indemnity.—Ordinance No. 1 indemnifies the Queen, Privy Council and the Cabinet (Ministry) from all liability for the breach of certain sections of the Constitution and legal code, due to the fact that the Legislative Assembly did not meet by the date provided by law.

Defence Force.—Ordinance No. 2, which in effect replaces the Emergency Act No. 5 of 1939, *q.v.*, provides for the establishment and formation of a Tongan Defence Force, for service within the limits of the Kingdom.

1940.

SEVEN Acts were passed and two Ordinances.

War Time Contingencies.—Act No. 3 authorizes Her Majesty in Council to enact any Ordinances or Regulations for the good Government and welfare of the Kingdom, which shall then have the same force and effect as if passed by the Legislative Assembly. The Assembly, when it meets each year, may rescind, but without retrospective effect, any Ordinance or Regulation so passed. The powers conferred under the Act are to continue in force so long as the British Empire (including Tonga) is at war and for six months thereafter, and it is expressly provided that nothing in the Act shall be construed as affecting or impairing the existing Treaty obligations between Great Britain and Tonga. The Act extends the powers of Her Majesty in Council to pass Ordinances conferred by ss. 7 and 8 of the Government Act, 1903.

Port and Service Tax.—Act No. 5 imposes a Port and Service Tax on goods imported into the Kingdom, other than those specified in the Schedule, at the rate of 3 per cent. *ad valorem*.

Agricultural Organization.—Act No. 6 is based in general principles on the Primary Producers' Organization and Marketing Acts, 1926 to 1938, and the Primary Producers' Co-operative Associations Acts, 1923 to 1934, both of Queensland. It provides in detail for the formation, registration and management of Local Producers' Associations, "Town Committees," Producers' Co-operative Societies, Commodity Boards, a Council of Agriculture and other matters connected with the agricultural and industrial development of the Kingdom.

1941.

[*Contributed by* A. L. ARMSTRONG, ESQ., *H.B.M.'s Agent and Consul.*]

SEVEN Laws were enacted:—

Finance Nos. 1 and 2 are Appropriation Acts.

Defence No. 3 repeals the Tongan Defence Force Act, 1939 (which applied Act No. 3 of 1923 of Fiji, *mutatis mutandis,* to Tonga) and empowers Her Majesty to raise a force called the Defence Force. The Act provides for the constitution and establishment of the Force, the appointment of officers and issue of uniform and equipment and all matters to do with the duties, discipline, administration and emoluments of the Force.

No. 7 empowers Her Majesty to make such Defence Regulations by Order-in-Council as appear necessary and expedient for defence purposes.

Agriculture No. 4 indemnifies any person appointed under the Act from any action, claim, etc., for damages, etc., sustained by reason of the passing of the Agricultural Organization Act, its operation or anything lawfully done under its provisions.

Land No. 5 provides for the levying of a fee of 5s. on the transfer of a mortgage.

Price Control No. 6 provides for the appointment of a Competent Authority with power to make orders fixing the wholesale or retail price of goods. The Act also empowers the Premier to set up a central price-control committee and local price-control committees. The duties of the local price-control committees consist in enforcing the provisions of the Act in their localities and making representations to the central price-control committee. The duty of the central price-control committee is to exercise a general supervision over the enforcement of the provisions of the Act and to give advice and assistance to the Competent Authority.

3. NEW HEBRIDES.

[*Contributed by the* RESIDENT COMMISSIONER.]

Port Dues.—The New Hebrides Port Dues Joint Regulation No. 1 imposes new rates of Port Dues.

Customs.—The Customs Duties Joint Regulation No. 4 imposes a new Customs Tariff.

Liquor.—The New Hebrides Import and Supply of Alcohol (Amendment) Regulation No. 6 reduces the fee for a licence to trade in alcoholic liquor.

Shell Fisheries.—The Trocas Shell Joint Regulation No. 7 prohibits, without licence, the removal, sale or export of trocas and certain other shell.

Police.—The Naval Officers' Police Powers Joint Regulation No. 8 provides Naval Officers with Police Officers' powers.

Shipping and Aircraft.—The Stopping of Ships and Aircraft Joint Regulation No. 9 authorizes the stopping of ships or aircraft in the New Hebrides.

Land.—The New Hebrides Land Transfer Restriction Joint Regulation No. 11 restricts dealings in land in the New Hebrides.

Public Health.—The New Hebrides (Native) Sanitation Joint Regulation No. 12 imposes measures designed to improve the general health of the native population and to prevent the recurrence of epidemic diseases.

Currency.—The Export of Currency (Restriction) Joint Regulation No. 14 prohibits the export of British and French currency to any place where such currency is not currently used.

The Importation of Currency Notes (Defence) Joint Regulation No. 18 prohibits the importation of certain currency notes except under licence.

Defence.—The New Hebrides Defence Powers Joint Regulation No. 16 provides for the defence of the New Hebrides.

Joint Regulation No. 17 increases the penalties leviable under certain Defence Regulations.

Produce.—Joint Regulation No. 19 provides for the inspection of produce for exportation from the New Hebrides.

1941.

Fences.—Joint Regulation No. 1 requests owners to fence their properties.

Boundaries.—Joint Regulation No. 2 requires owners to ascertain the boundary of their lands.

Cattle.—Joint Regulation No. 3 imposes penalties on owners of stray cattle.

Aliens.—Joint Regulation No. 4 of 1941, amending Joint Regulation No. 7 of 1939, provides that persons entering the New Hebrides shall be deemed as aliens until the contrary has been proved.

Motors.—Joint Regulation No. 5 provides for inspection of motor vehicles by an appointed Commission.

Joint Regulation No. 8 amends the Joint Regulation No. 10 of 1934 and imposes new rates for registration of motor vehicles.

Public Health.—Joint Regulation No. 11 of 1941 provides for the compulsory medical treatment of natives.

Prohibited Areas.—Joint Regulation No. 12 gives power to declare islands, island or part of an island to be a closed district.

Emigration.—Joint Regulation No. 13 of 1941 controls the movements of persons desirous of leaving the New Hebrides.

Export Duty.—Joint Regulation No. 14 provides for the levy of export duty on Kauri pine logs.

Civil Service.—Joint Regulation No. 16 provides subsistence and travelling allowances for public officers on duty.

Currency.—Joint Regulation No. 17 controls the acquisition and transfer of securities and the purchase, sale and loan of foreign currency and gold.

Order No. 1 designates the Commonwealth Bank of Australia, Sydney, as a bank to which foreign currency shall be offered for sale.

Order No. 2 designates the Commonwealth Bank of Australia, Sydney, as the authority governing the grant of currencies of the non-sterling area.

Order No. 3 defines countries included in sterling area.

Order No. 4, amended by Order No. 8, defines foreign currency.

Order No. 5 prohibits transfer of securities to certain countries.

Order No. 6 requires Vila firms to furnish financial information.

Order No. 7 deals with finance, etc., with occupied territories.

Joint Regulation No. 18 provides for the Franc stabilization.

Trading with the Enemy.—Joint Regulation No. 19 imposes penalties for trading with the enemy and makes provision as respects the property of enemies and enemy subjects.

Order No. 1 appoints a custodian of enemy property.

Order No. 2 requires payments normally due to enemy persons to be passed on to the Custodian of Enemy Property.

Order No. 3 requires enemy properties to be vested in the Custodian of Enemy Property.

Native Labour.—Joint Regulation No. 20 controls the recruitment and employment of natives.

Joint Regulation No. 21 prohibits the recruitment and employment of natives from the Big Nambas area.

Lands.—Joint Regulation No. 22 prohibits transfer or sale of lands without consent of the Resident Commissioners.

Electricity.—Joint Regulation No. 23 controls the use and installation of electric light and power at Vila.

Joint Regulation No. 25 imposes lighting tax on the town of Vila.

Export Duties.—Joint Regulation No. 26 repeals Joint Regulations Nos. 5 of 1917 ; 7 of 1919 ; 8 of 1919 ; 9, 10 and 11 of 1920 ; 3 of 1927 ; and 14 of 1941, and provides new export duties.

Native Labour.—Joint Regulation No. 28 suspends certain articles of Joint Regulation No. 20 of 1941 and provides new terms for the controlling of recruitment and employment of natives.

Enemy Aliens.—Joint Regulation No. 29 provides better protection and management of the property of enemy aliens detained under the provisions of Joint Defence Regulation No. 16 of 1940.

Order No. 1 vests control of properties of enemy internees in the Custodian of Enemy Property.

VI. SOUTH AFRICA

1. UNION OF SOUTH AFRICA

THIRTY-ONE Acts received the assent of the Governor-General between February 20 and May 15, 1940.

Weights and Measures.—No. 8 amends Act 32 of 1922 so as to facilitate the verification of departmental and local standards of weights and measures with the Union Standards.

Fisheries.—No. 9 controls the export of crawfish. No. 10 controls sea fisheries and provides for the better marketing of fish by the constitution of fish marketing improvement areas.

Land and Agricultural Bank.—The Land Bank Act of 1912 is amended by No. 12 so as to extend its operation for the benefit of co-operative agricultural companies.

Act of Indemnity.—No. 13 validates certain proclamations issued by the Governor-General and indemnifies the Government and its servants in respect of Acts done in good faith in defence of the Union, the maintenance of public order and the prosecution of the war. It also removes any disabilities that may have been incurred by members of the defence forces under Act 30 of 1928 or as regards electoral qualification.

Public Health.—By No. 14 the Public Health Act, 1919, Amendment Act, 1927, is further amended by transferring certain powers to the Divisional Council of the Cape. It also establishes a National Nutrition Council consisting of the Minister of Public Health, the Secretary of that department, together with those of Agriculture, Native Affairs, Labour and Social Welfare, such other officers of the public service as the Governor-General may from time to time determine and other persons having special knowledge relating directly or indirectly to nutrition. The work of the Council is to investigate and report to the Minister " upon all matters, relating directly or indirectly to the prevention of malnutrition in and the improvement of the diet of the inhabitants of the Union."

Railways and Harbours.—The Acts relating to railways and harbours are amended by No. 15 and extended so as to cover various points in relation to the health of and compensation to employees.

War Service.—Any disabilities incurred by Members of Parliament and other persons by reason of service in the defence of the Union are removed by No. 19 amending the South African Act, 1909.

Roads.—No. 21 regulates the display of advertisements outside certain urban areas at places visible from public roads and the depositing of disused machinery or refuse and the erection of structures near certain public roads. The person who last drove a vehicle involved in an accident must move an abandoned vehicle within twenty-one days.

Industrial Development.—By No. 22 the Industrial Development Corporation of South Africa is constituted to promote the establishment of new industries and industrial undertakings and the development of existing organizations " to the end that industrial developments within the Union may be planned, expedited and conducted on sound business principles." The Corporation has wide powers and all matters dealt with must be considered strictly on their economic merits, " irrespective of all other considerations whatsoever." It operates on the principle of aiding others rather than undertaking control or taking complete financial responsibility. Directors as well as Managing Directors receive remuneration.

Wine and Spirits.—The Wine and Spirits Control Act, 1924, is amended by No. 23 so as to make further provision for the control of the production of wine and of the disposal of wine not intended for distillation purposes.

Rents.—The Rents Act of 1920 is amended and extended by No. 26, which also controls, fixes and reduces charges for board, defined to be " supplying of at least one meal a day under a control which is for a period of at least one week and includes lodging."

War Injuries.—The War Special Provisions Act, 1919, is extended by No. 29 to meet conditions of the present war so as to provide for the forces on active service and their dependants, as well as members of the Essential Services Protection Corps.

War Legislation.[1]—When the Fifth Session of the Eighth Parliament was summoned in August, 1940, it was for the express purpose of considering four measures affecting the Union's part in the war. Act 32 of 1940, which amends the War Measures Act, 13 of 1940, gives the Governor-General power to make, by Proclamation, regulations which he deems necessary or expedient to provide for the defence of the Union, the safety of the public, the maintenance of public order, for the effectual prosecution of the war in which the Union is or might become engaged, and the making of adequate provision for dealing with circumstances which in his opinion have arisen as a result of any such war. Such regulations, however, cannot impose compulsory military service other than that provided by Act 13 of 1912, nor can they alter or suspend any law relating to the qualification, nomination, election or tenure of office of members of the Senate, Legislative Assembly or Provincial Council, or to the powers, privileges or immunities of the members or the committees of Parliament or the Provincial Council. It was under s. 2 of this Act that the Superior Courts were given power to review the criminal proceedings taken in respect of the failure of persons to hand over their rifles in terms of Government Notice 1,069 of 1940. Act 33 of 1940 was the Additional Appropriation Act ; Act 34 of 1940 amended the Income Tax Act of 1940. Under it the rate of the normal and super income tax was increased as well as the contribution by the gold mines. This Act also increased certain existing customs and excise duties, and imposed new duties. Under s. 21 of Act 37 of 1923 (Insurance Act) an insured person cannot be deprived of the benefit of his policy if he engages in military or naval service. By Act 35 of 1940 an amendment to this section was made, under which a company is not liable on the policy if the insured dies as a result of bodily injury or ill-health which arose out of and in the course of service rendered *outside* the Union and S.W.A., and any dependant has received or is entitled to receive any financial benefit from the State. Provision is made for a refund of premiums paid should the company not be liable.

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[1] Quoted from 58 *South African Law Journal*, p. 265.

1941[1]

In all 53 Bills were published, and of these 46 were placed on the Statute-book.

Electricity.—Act 3 amends the Electricity Act 42 of 1922 by providing for the loan of moneys to employees for the acquisition by them of dwellings, etc., for their personal occupation.

Forests.—Act 13—the Forest and Veld Conservation Act—amends and consolidates the laws relating to the tenure, demarcation, protection, management and utilization of forests ; the regulation of veld burning ; it further regulates the trade and the use of trade names and marks in connection with forest produce, the control of the importation and exportation thereof, and the making of better provision for veld, soil and water preservation. This Act repeals the following Acts and Ordinances of the different provinces: In the Cape, Ordinances 5 of 1836, 28 of 1846 ; Act 18 of 1859 and s. 17 of Act 27 of 1882. In Natal, so much of Law 21 of 1865, and Act 31 of 1895 as are unrepealed ; in the Transvaal, Law 2 of 1870, so much as is unrepealed, and s. 10 of Act 16 of 1908 ; in the Orange Free State, so much of Act 32 of 1908 as is unrepealed. The following Union Acts are wholly repealed—Nos. 16 of 1913, 14 of 1917 and 28 of 1930. The Act does not apply to any land which is or may have become invested in the S.A. Native Trust unless it is land which has been set aside as a forest reserve or acquired for such purpose. The Governor-General is given the power to expropriate, subject to compensation, any area of land required for the conservation of Crown forests or plantation, or the prevention of sanddrifts, of soil erosion or the reclamation of land affected thereby, or for the protection of catchment areas or the conservation of water sources.

Motor Transport.—Act 15 amends the Motor Carrier Transportation Acts, 39 of 1930, 31 of 1932 and 15 of 1937. The exemptions for motor carrier transportation are amended ; the appointment of members of a local board is altered, as well as the proclaiming of areas of a local transportation area. The Board may refuse to consider applications, renewals for or exemptions from motor carrier transportation unless the applicant or objector has deposited with the Board an amount not exceeding £100. The amount so deposited may be repaid to the successful applicant or the Board may, if the application is unsuccessful, retain it either in whole or in part. The Board may suspend or cancel a motor carrier transportation certificate if the holder or his servant has been convicted of any offence relating to motor vehicles or a contravention of a binding determination under the Wage or Industrial Conciliation Acts. No person may make known by any means whatever that he is willing to convey for reward any persons or goods by motor vehicle unless such conveyance is authorized by a certificate or exemption duly issued under the Act.

Mint.—Act 16 provides for the establishment of the South African Mint. Persons employed at the Pretoria Branch of the Royal Mint, who were in the employ of the United Kingdom of Great Britain and Northern Ireland, now become employees of the Union Government. Provision is made for the classification of their posts under the Public Service Act.

Merchandise Marks.—Act 17 relates to the marking of merchandise, and of coverings in or with which merchandise is sold and the use of certain words and emblems in connection with business unless written authority has been granted to use them, *e.g.*, the Royal Arms, the Arms of the Union, the style, title, name, portrait or effigy of the King, a member of the Royal Family, the Governor-General or a Minister, or the name or effigy of any President of the S.A. Republic or the Orange Free State, or the reproduction of the National Flag. Under s. 17 it is an offence for a person to buy or sell any bottle or screw stopper which has indelibly applied words in the English or Afrikaans language that the bottle's screw stopper is the property of a named person, or to buy any goods contained in the bottle unless the goods are the property or have been produced or manufactured by the person so named.

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[1] The summary of this year is based upon the contribution by M. Barnett in 58 *South African Law Journal*, pp. 265-271.

Legal Profession.—Act 19 amends the Attorneys, Notaries and Conveyancers Admission Act, 23 of 1934. By s. 3, which amends s. 32 of the 1934 Act, no person can orally or by any written or printed means, directly or indirectly canvass, advertise or tout for any work—with or without remuneration—in connection with the administration, liquidation or distribution of any deceased or insolvent estate, or the estate of a lunatic or any person under any other disability. From this provision, however, certain classes of persons are exempt, *e.g.*, board of executors (including the canvassing by shareholders or employers of other shareholders or employees of the same board), trust companies (not a private company) licensed on or before December 31, 1938, which by name, title, signboard or nameplate or notices indicate that their objects or functions include such work ; persons who on February 21, 1941, held a valid broker's or agent's licence and whose signboard, nameplate, notices or stationery indicates that their business included such work ; accountants entitled to use any designations provided for by Act 13 of 1927 ; attorneys, notaries, conveyancers who by their signboards, nameplates, stationery, etc., indicate that they do such work. S. 4 prohibits persons other than a *practising* attorney, notary or conveyancer from drawing and preparing certain documents for or in expectation of any gain or reward. From this prohibition certain persons are excluded, viz., a person in the employ of a practising attorney, etc., an agent as referred to in Act 32 of 1917 ; a person in the employ of the Government, Railway Administration, Provincial Administration or the Land Bank ; a trustee in an insolvent estate acting within his statutory duties ; any person who at December 31, 1938, was the manager, secretary of or attorney in the employ of a board of executors or licensed trust company and who was entitled at that date to prepare, etc., any document ; any practising advocate who would be entitled in the ordinary course of his profession to draw such documents. S. 5 gives the Superior Courts power to exempt persons obliged to give security imposed by law from doing so. Under this Act provision is made for the establishment of contribution to and management of the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund. The accumulated amount of such fund is not to exceed a quarter of a million pounds.

War Damage Insurance.—Act 21—War Damage Insurance Act—provides for state insurance against damage to property by acts of war or by certain other acts and for the payment from State funds of compensation for such damage. War Damage means any damage amounting to not less than five pounds to property in the Union (other than a vessel and other than property on a vessel) caused by (*a*) a member of the armed forces of a country with which the Union is at war or (*b*) any action taken by a member of the armed forces of the Union or of a country associated with the Union in a war, which is directed or intended to be directed against armed forces mentioned in (*a*), or (*c*) the impact, ignition or explosion of (i) an aircraft or vehicle or any object or substance therein or thereon or (ii) any person who or any object or substance which fell from the aircraft or vehicle, if at the time or immediately before the impact the aircraft or vehicle is or was flown by a member of the armed forces mentioned in (*a*) or in any action referred to in (*b*)—provided that a person who while a member of the forces mentioned in (*a*) was taken prisoner by forces mentioned in (*b*) is not regarded as a member unless he has rejoined any armed forces mentioned in (*a*) ; or (*d*) persons committing public violence or any action taken in quelling public violence. The amount of compensation cannot exceed, other than in the case of (*d*), the sum of £1,000. The Minister can in respect of (*d*) or any other war damage enter into a contract of insurance with any person for an amount in excess of £1,000.

Factories.—Act 22, the Factories, Machinery and Building Work Act, repeals the Factories Acts, No. 28 of 1918 and the Factories Amendment Act 26 of 1931. Much energy was expended in opposing Clause (*h*) of s. 51 (1) which empowers the Governor-General to make regulations "as to conditions of work of employees in any factory where in the opinion of the Minister special provision is necessary to safeguard the physical, moral or social welfare of such employees."

Census.—Act 23—the Census, Delimitation and Electoral Act—makes provision for the inclusion in the 1941 Census of European adult Union nationals serving with defence forces or employed by the State on war work and their dependants in the provinces in which they ordinarily reside; it defines the duties of the Delimitation Commission in respect of persons so included; it provides for the registration as voters of persons (other than natives) serving with the defence forces or employed by the State on war work and their dependants in the electoral divisions in which they ordinarily reside. Provision, too, is made for the enrolment as voters of natives under the Representation of Natives Act—12 of 1936—and for the qualification of diamond diggers for registration in the Cape Natives Voters Roll.

Motor Cars.—Act 29—the new Motor Car Sales Tax Act—provides for a tax of one penny in respect of each one pound weight of every new motor car delivered or deemed to be delivered on or after April 1, 1941. Provisions are made, *inter alia*, for the recovery of the tax from the person liable; and the furnishing of returns by motor dealers of the sales of new motor cars.

Workmen's Compensation.—The Workmen's Compensation Act, No. 59 of 1934, is repealed by Act 30. The Commissioner appointed under the Act enquires into accidents, adjudicates upon all claims; determines who is a workman, employer, principal or contractor; decides any question relating to the rights to compensation; the computation of earnings, the degree of disablement; the amount and method of payment of compensation. Although the Bill contained no provision for giving the right to review or appeal against the decision of the Commissioner, the Minister in committee stage saw reason and himself introduced an amendment allowing a right of review and/or of appeal. The basis of the computation of the amount of compensation for temporary total disablement and permanent disablement has been increased. This Act provides, too, for the establishment and management of and contribution to an Accident and Reserve Fund. Under this Act the State has undertaken the insurance and payment of compensation to workmen.

Income Tax.—Act 31 repeals and re-enacts the Income Tax Act from 1925 onwards. It is not here intended to give a full summary of all the clauses affected by this Act, but the following may be noted—(i) the rebate allowed a person on normal tax is differently calculated; (ii) the imposition of the tax relating to companies is altered and (iii) the introduction of the undistributed profits tax.

Elections.—Act 37—the Active Service Voters Act—enables persons (other than natives) enrolled upon the voters' lists and serving outside the Union with the Union Defence Forces during the present war, to vote at any General Parliamentary or Provincial election; it enables natives enrolled upon the Cape Natives Voters Roll to vote for members under the Representation of Natives Act.

Judiciary.—By s. 97 of Act 41 of 1941—which is substituted for that section in the S.A. Act—the Governor-General may appoint some fit and proper person to act as a judge of any division in the Supreme Court of S.A. in the place of and in addition to any other judge of that division—provided that no person other than a judge or a former judge of a Supreme Court—can be appointed as Chief Justice or a Judge of Appeal. The provision takes effect as and from June 24, 1936. This Act also amends s. 6 of Act 16 of 1912 by providing for the retirement of judges at the age of 70; and s. 15 of Act 27 of 1912 is amended. On the request of the Minister of Justice any judge of any division of the Supreme Court may act as a judge of any other division of that Court in the place of or in addition to any judge of that division.

Patents.—In *Griffin Engineering Co., Ltd.* v. *Springs Town Council* (1941, J.W.D. 73), the Appellate Division in construing ss. 41 (2) and (3) of Act 9 of 1916—Patents, Designs, Trade Marks and Copyright—held that the only person who could apply for the patent in the Union was the person who applied for (and *per* Tindall, Centlivres and Feetham, JJ.A., was granted) the patent in the foreign country, and it was not open to the assignee or representative of the applicant (grantee) in the foreign country to apply in the Union. Tindall, Centlivres and Feetham, JJ.A., further held that it was necessary for the patent to be registered in the foreign reciprocity country before the applicant could avail himself of the advantages conferred by ss. 41 (2) and (3). Act 42 of 1941 was passed to amend these sub-sections so as to enable a person other than the applicant in the foreign country to apply. Under sub-s. (2) the grant of a patent of an invention in a country other than the Union does not prevent the grant in the Union of such patent nor does it invalidate it, provided that the application in the Union is made within 12 months of the lodging in the other country of the application for the grant of the patent and by the applicant or by a person who has derived his title either from the applicant in the other country or from the same source as that applicant. Under sub-s. (3), if an application in the Union is so made, the publication in print in the Union or any other country, or the knowledge or use in the Union of the invention during the said period of 12 months does not prevent the grant of that patent in the Union nor does it invalidate any patent so granted provided the application in the Union is made by the applicant in the other country or by a person who has derived his title either from the applicant in the other country or from the same source as that applicant. These new sub-sections come into force as from January 1, 1917, but they do not apply in respect of any patent which before the commencement of this Act was declared to be invalid by a competent Court in the Union.

Finance.—Act 43 provides for the disposal of certain surplus State revenue; the writing off of certain debts to the Government; the authorization of the Governor-General to issue special warrants for expenditure in re-absorption into civic life of demobilised soldiers and to meet claims against the War Damage Insurance Fund; the transfer of certain moneys from the standard moneys from the Standard Stock Account in the department of Defence to the War Expenses Account and other items. Act 46—the Special Taxation Act—amends the income tax of 1940 and fixes the rates of the Gold Mines Special Contribution and of the Excess Profits Duty. It also defines the powers of the Revenue Advisory Committee set up by the Minister in considering applications for relief.

2. PROVINCE OF THE CAPE OF GOOD HOPE

[*Contributed by* A. J. PIENAAR, ESQ.]

THE legislative output of the Cape Provincial Council in 1940 despite two Sessions was small, though as many as thirty Ordinances were passed. The prevailing prosperity in the country was reflected by the fact that in spite of the war it was necessary to increase taxation in respect of only three sources of revenue—those least burdensome to the individual. Thus, (*a*) the tax on the incomes of companies was raised from fourpence halfpenny in the pound to sevenpence (Ord. No. 7); (*b*) licence fees on motor vehicles were increased by fifteen per cent. (Ord. No. 8); and (*c*) the Entertainments Tax was slightly increased on charges for admission above sixpence (Ord. No. 9).

Local Government.—The annual election of Councillors, due in September, 1940, was postponed by No. 10 for one year and the period of office of Councillors due to retire was correspondingly extended. Municipal Councils were empowered to grant leave of absence to Councillors on Active Service for their term of service or until they returned; the provisions of the existing law disqualifying Councillors who hold an office of profit under the Imperial or Union

Government are repealed in respect of Councillors on Active Service and Councillors who are in arrear with their rates and taxes will not be disqualified while they are on Active Service.

The annual Ordinance (No. 12) amending the principal Ordinance, viz., the Cape Municipal Ordinance, No. 10 of 1912, while granting larger regulatory and certain increased administrative powers to municipalities, gives general power to view expenditure on municipal measures necessitated by the war. The obvious purpose of this was to enable Municipal Councils to pay for or contribute to the cost of civilian protective services and pre-fighting services, etc.

No. 20, a sister measure to the Municipal Amendment Ordinance, also contains a provision enabling Councils to give extended leave of absence to members on Active Service. It further enacts provisions enabling Councils to collaborate with urban local authorities in carrying out sewage schemes and other works. The Councils are also empowered to make regulations in respect of camping and camping sites.

Education.—No. 19, giving the administrator power to extend the lives of school boards for a year, while, no doubt necessitated by war conditions, does not limit this power to the duration of the war. The Ordinance also effects a few minor alterations in the parent Ordinance (No. 5 of 1921).

No. 11 makes special provision for the payment by the Administrator out of funds voted by the Provincial Council of School fees, costs of books and school requisites supplied to children of persons on Active Service, and of persons who have been permanently disabled or killed or have died from wounds or injuries received or disease contracted on Active Service. The Ordinance is modelled on a similar Ordinance passed in 1917—No. 15. The Ordinance does not make it clear whether its provisions apply to all schools or only to those under the Education Department, but it is likely that it will not benefit children attending the more expensive private schools, for the Administrator is given discretion to refuse to pay in respect of any child whose father can afford to pay.

Nurses' Pensions.—The principal feature of No. 13 measure is one which provides for reciprocity with other administrations. Service in the other Provinces and under the Union Governments is recognized, subject to certain conditions, for pension purposes. This will widen the field of employment and permit of advancement without loss of accrued pension rights.

The rest of the legislation is not of sufficient general interest to merit detailed comment.

3. NATAL

NINETEEN Ordinances were passed in 1940.

Protection of Animals.—No. 6 protects a certain species of monitors lizard and restricts the export of them and of tortoises.

Local Government.—No. 17 makes a provision for granting special leave of absence to members of city or town councils, town boards, local administration and health boards and health and malaria committees while serving in defence of the Union. No. 19 suspends the holding of annual elections of such bodies during 1940.

[It is hoped to publish the review of legislation of 1941 in the next issue.]

4. ORANGE FREE STATE

FIFTEEN Ordinances were passed in 1940.

Entertainment Tax.—A further amendment of the Licensing Consolidation Ordinance No. 9 of 1927 already amended by No. 7 of 1939 is contained in No. 8. It authorizes the Administrator to refund an amount not exceeding 50 per cent. of both the licence fee and the tax in the case of an entertainment presenting South

African music, dramatic art or elocution or conducing to the development of a South African culture.

Shop Hours.—Ordinance No. 6 of 1925 is extended by No. 10, so as to give further local option in the selection of hours of opening and closing shops and also in respect of the half-holiday.

Education.—Amendments of the Education Laws Consolidation Ordinance No. 15 of 1934 are made by No. 11, and include authority for the Administrator to provide for the compulsory medical examination of pupils and teachers and for the examination by a person authorized by the Director of Education as to the physical cleanliness of pupils at any school.

Hawkers and Pedlars.—Trading by hawkers and pedlars is regulated by No. 13 so that they may not carry on business within one mile of the place of business of any person holding a licence to carry on the trade of a general dealer.

Motors.—Act 15 makes various amendments in the Motor Vehicle Ordinance No. 18 of 1931 including several dealing with the ownership of motor vehicles, sold by auction, forming part of the property of an estate insolvent or a person deceased, and the licensing of dealers in motor vehicles.

1941

EIGHT Ordinances were passed in 1941 and included four dealing with finance.

Hospitals.—No. 4 fixes the scale of salaries of nursing staffs of hospitals, in the same kind of way as the recommendations of the Rushcliffe Committee in England, with the inclusion of the grading of hospitals.

Local Government.—No. 5 amends the Local Government Consolidation Ordinance No. 15 of 1935 and provides a scale of allowances for mayors graded according to the size of the population from £1,250 for over 500,000 down to £100 for less than 10,000.

Roads.—Eleven Ordinances are consolidated and amended in No. 6, which now contains the whole law relating to public roads, outspans and Road Boards.

Motor Vehicles.—Another Consolidating Ordinance is No. 8, which repeals eight Ordinances, and with amendments now provides for the registration of Motor Vehicles and trailers and covers all the points relating to the licensing of them as well as the liabilities of drivers.

5. TRANSVAAL

[*Contributed by* C. J. M. NATHAN, ESQ.]

TWENTY-FOUR Ordinances were passed during the year 1940. Apart from financial measures, they consisted in the main of amendments to former enactments. The most important were a Road Traffic Amendment Ordinance, two amending the Motor Vehicle Ordinance, a consolidating Ordinance for the control of Dog Racing and Betting, and one dealing with protection of Native Flora.

1941

TWENTY-ONE Ordinances were passed in 1941.

Wheel Tax.—No. 1 provides for the imposition of a wheel tax on any vehicle other than a bicycle or tricycle and an amount of two shillings on every bicycle and tricycle. The Government, local authorities, hospitals, universities and similar institutions are exempt. Metal badges are to be affixed to show that the tax has been paid.

Local Government.—Various amendments are made to the Local Government Ordinance, 1939, by No. 12 and include the clarification of a section dealing with crematoria, that portions may be set aside for the cremation therein of white persons, persons of different religious denominations, natives, Asiatics or other coloured persons. Local authorities may not make by-laws to prohibit pin table, slot machines or similar devices unless they are satisfied " that the obtaining of benefits, reward or prizes thereby or in connection therewith depends to some degree upon chance."

Hospitals.—No. 17 amends the Public Hospitals Ordinance, 1928, so as to provide for the extension of accommodation made necessary for the members of the forces to be financed when it is no longer needed for them.

Town Planning.—The amending ordinances which form the larger part of the legislation include No. 20, containing a number of amendments introducing the powers of the Administrator to deal with townships and town planning.

Shop Hours.—No. 21, amending the Shop Hours Ordinance, 1923, allows hawkers and pedlars of ice cream and other frozen sweetmeats to sell them on Sundays up to 11.30 p.m. Fifteen minutes' grace is allowed to shops after the authorized closing hours. The occupier is liable to any offence committed by any servant or member of his family.

6. NORTHERN RHODESIA

[*Contributed by* H. W. WILSON, ESQ., *Attorney-General.*]

FIFTY-FIVE Ordinances were passed in the year 1940.

Attachment of Debts.—No. 12 is based on the Common Law Procedure Act, 1854, the Common Law Procedure Act, 1860, and the Wages Attachment Abolition Act, 1870.

Compulsory Military Service.—No. 13 renders liable to military service every male British subject who has attained the age of 18 years and has not attained the age of 45 years and who is ordinarily resident in the Territory, other than persons specifically exempted under the Ordinance from such service.

Pension Rights.—No. 23 introduces special provisions in regard to the pension rights of civil officers of the Government released for military service.

Civil Process Against Soldiers.—No. 32 provides that soldiers should not be taken out of certain specified military units except for a criminal charge or a debt of £30 or upwards. The Ordinance also provides that the pay of a soldier shall not be liable to be attached by any civil process except in respect of a debt or liability incurred within three years next before September 3, 1939.

Bank Notes and Coinage.—No. 33 amends Ordinance No. 23 of 1931 so as to make currency notes issued by the Southern Rhodesia Currency Board legal tender in Northern Rhodesia.

Rent Restriction.—No. 37 prohibits the increase in the rent of immovable property without permission beyond that payable on August 31, 1939, or, in the case of property first let after that date, beyond an amount to be fixed by the Director of Supplies and Transport.

Pharmacy and Poisons.—No. 38 provides for the registration of pharmacists, the registration of the premises on which the business of a pharmacist is carried on and regulates the sale and supply of poisons.

Workmen's Compensation.—No. 55 amends the Employment of Natives Ordinance so as to make further provision for the compensation of natives injured in the course of employment.

1941

FORTY-SEVEN Ordinances were passed in 1941.

Legislative Council.—No. 1 amends the Legislative Council Ordinance in respect of the qualification of persons entitled to vote at elections for the Council. The main alteration is to make the residential qualification one of six months instead of eighteen months.

War Savings Certificates.—No. 2 provides for the issue of Northern Rhodesia War Savings Certificates.

Legislative Council Elections.—No. 6 provides for a general election to take place during the present emergency without the necessity of first dissolving the Council.

Adoption of Children.—No. 15 makes provision for the adoption of children and is based on the Adoption of Children Act, 1926.

African Education.—No. 18 amends the African Education Ordinance, 1939, in order to give statutory authority for compelling the attendance of African children at school.

European Education.—No. 20 provides for the management of European education and makes attendance at school of European children between the ages of eight and fifteen compulsory.

Patents.—No. 22 makes special provision with respect to patents, registered designs, copyrights and trade marks owing to conditions arising out of the war. It is based on similar legislation enacted in the United Kingdom.

Motor Traffic.—No. 24 repeals an Ordinance enacted in 1927 and is designed to control motor traffic under present-day conditions. In particular it provides for the introduction of compulsory third-party insurance and for the control of public service vehicles which can only operate with a permit from a Road Service Board, which is empowered, *inter alia,* to take into consideration existing passenger and goods transport including transport by rail.

Pensions, Etc., for African Soldiers.—No. 33 provides for the payment of pensions, gratuities and other allowances in respect of the death, disablement or sickness of African members of His Majesty's Forces serving in any unit raised in the Territory.

Tsetse Control.—No. 35 makes provision for the control and prevention of the spread of tsetse flies.

Police.—No. 37 repeals the existing Ordinance which governs the civil police force. The Ordinance is more comprehensive than the repealed Ordinance and in particular sets out in detail the powers, duties and privileges of police officers and deals with all such matters as discipline, which are the subject of nearly all Colonial Police Ordinances.

Employment of Natives.—No. 39 amends the Employment of Natives Ordinance so as to give effect to the International Labour Convention No. 50 concerning the regulation of certain special systems of recruiting workers.

Entertainments Tax.—No. 40 imposes a tax on entertainments for the year 1942.

Income Tax.—No. 45 increases the amount of income tax to be paid both by individuals and by companies. The Ordinance also provides for the introduction of compulsory savings.

Forests.—No. 46 repeals the existing Forests Ordinance and is based on more up-to-date legislation to be found in certain Colonies.

Game.—No. 47 is designed to make better provision for the preservation of game and wild animal life and to give effect to the provisions of the International Convention signed in London on November 8, 1933, in so far as those provisions relate to the preservation of fauna in its natural state.

7. SOUTHERN RHODESIA

[*Contributed by* R. J. MORTON, ESQ., *Solicitor-General.*]

ALTHOUGH 33 public Acts were passed during the year, there was very little new legislation, and the work of consolidation has been suspended during the war.

Constitution.—The Constitution limits the number of Ministers to six. No. 15 is a temporary war measure which permits the appointment of a seventh Minister and also creates a post of Parliamentary Secretary to the Prime Minister.

Armed Forces.—The National Service (Armed Forces) Act, No. 8, is possibly unique. Compulsory military service for home defence has been in force since 1927, but this Act introduces special war-time conscription into the Colony's Defence Forces for service in any part of the world and then gives the authorities power to attach or transfer men to any other of His Majesty's forces. The reason is that the Colony is in general not maintaining its own distinct units in outside theatres of war, but is providing drafts for all branches of the Imperial forces. This measure was made necessary, not by any lack of volunteers, but by the need to maintain an even flow of enlistment to the places where men are most required. For reinstatement in civil employment the Act contains provisions which are similar to those of the United Kingdom Act of 1939.

The same circumstances gave rise to No. 33, the Casualties (Armed Forces) Act. Rhodesians are serving in so many widely separated corps of Imperial and Dominion forces that notification of casualties through the correct official channels may be unduly delayed. The Minister of Defence is given authority to issue, under proper precautions, certificates of death on active service which will be accepted as sufficient proof of death for the purposes of administration of estates and vindication of claims resulting from death. Cheap and simple means are also provided for conserving and administering the estates of missing men.

No. 13 amends the insurance law to make all life policies issued in the Colony before the war cover risks of death on active service, though it will be possible to stipulate in any policy issued during the war that such policy shall not cover the risks of active service.

Maize Control.—Control of the marketing of maize was first introduced in 1931 as a temporary expedient with the avowed object of inducing farmers to reduce the acreage under maize until the local market could absorb the whole of their production. Until 1940 every Parliament, in renewing this legislation, has jealously put a time limit on its operation, but No. 4 now makes maize control permanent and introduces three new provisions. The extent to which the producer shares in the remunerative local market and in the loss on export will depend solely on his deliveries to the Control Board for the particular season and not, as in previous legislation, on his acreage in earlier years. Stock feeders will be encouraged to use maize and so reduce the exportable surplus by being enabled to buy it at a price which is lower than the general internal price, but higher than the export price. Native-grown maize is dealt with separately and to a large extent brought under the control of the Minister for Native Affairs instead of the Minister of Agriculture. A native grower who sells his crop to other natives as food will be entirely free from control. If he sells it into the general market he will receive fixed cash prices from the dealers, prices being fixed from year to year by the Minister for Native Affairs on a zoning system. If, however, he owns his own land he may choose the alternative of delivering his crop to the Control Board and taking his chance equally with the European of obtaining a greater or less return when the pay-out for the whole season's crop has been determined. Fluctation of market prices over and under the fixed cash prices is to be levelled out by a Price Stabilization Fund applicable only to native-grown maize.

Taxation.—In addition to income tax varying from 1s. on small incomes to 5s. on the larger, No. 24 imposes a surtax on the excess of any income over £1,000.

No. 23 imposes an excess profits tax of 60 per cent. on profits in excess of the profits of the last pre-war year or in excess of the statutory percentage on capital employed. In the case of mining, the statutory percentage varies from 17½ per cent. to 20 per cent., and in the case of all other businesses from 12½ per cent. to 15 per cent. Farming, gold mining and railway undertakings are exempted from the tax, the second because it is specially taxed on the gold premium and the third because their profits are controlled by pre-war legislation.

Miscellaneous.—No. 6 authorizes the establishment of crematoria.

No. 7 is of some historical interest. In 1897 the British South Africa

Company, anxious to encourage the immigration of labourers, offered 10 acres of land on certain conditions to any male native of the Fingo tribe from Cape Colony who would come and work in their territory. Those who arrived did not all fulfil the conditions and their title to land was very uncertain. This Act cancels all Fingo titles to land, sets aside an area of about 26,000 acres as a Fingo Location and appoints a Commission to examine the claims of applicants. Plots of 20 acres each will be awarded to chiefs and their male heirs and of 10 acres each to others. Over the remaining extent of the land plotholders will have common pasture rights, subject to Government supervision in carrying out afforestation and soil conservation schemes.

VII. BRITISH INDIA

1.—Central Legislature

[*Contributed by* A. R. CORNELIUS, ESQ., I.C.S., *and* T. D. WICKENDEN, ESQ., I.C.S., *Legislative Department*.]

THE Constitution Act was amended in several important respects during the year under review. The limit of six months on the validity of a Governor-General's emergency Ordinance has been temporarily removed, and the Ordinance-making powers of Provincial Governors have been more accurately defined. Profession taxes imposed by Provinces have been subjected to a limit, but at the same time expressly saved from challenge as taxes on income, which the Centre alone can impose. Central institutions, including Railways, have been exempted from payment of Provincial taxes on the sale of electricity consumed by them, and Provincial Governments are required to provide in the relevant law that the price charged to the Centre shall be less than that charged to other substantial consumers by the amount of the tax. A few alterations and additions have also been made in the lists which define the exclusive legislative powers of the Centre and the Provinces respectively.

The legislative output of the Centre during the year comprised one Governor-General's Act, fourteen Ordinances and nine Regulations made by the Governor-General, and forty-one Acts of the Legislature, including one Act sponsored by a non-official member. Thirteen of the Ordinances and nine of the Acts are connected more or less directly with the war, which constituted throughout the year the main pre-occupation of the Government, but, nevertheless, did not prevent the promotion and enactment of a number of important measures, lying in the field of ordinary administration.

Acts of the Governor-General.—Only once was it necessary for the Governor-General to invoke the special powers conferred on him by s. 67 B of the old Government of India Act, as continued in force by s. 317 of the Government of India Act, 1935. The Act thus made was the Indian Finance (No. 2) Act, which increased postal rates, the surcharge on income tax and the super tax payable by companies. Opposition was entirely political in nature, the result of a return of the Congress Party members after an absence for two Sessions, with the avowed object of taking advantage of the Parliamentary freedom of speech accruing from sub-s. (7) of s. 67 of the Government of India Act, and of using the rejection of the Bill as evidence for the claim that India was not a willing participant in the war. The Muslim League Party, on whose attitude the issue depended, remained neutral, and the Bill was rejected by 55 votes to 53 after a debate, essentially political, lasting six days.

Ordinances.—The Governor-General promulgated fourteen Ordinances during the year. Thirteen of these were necessitated by the present emergency. The most important of these were the National Service (Technical Personnel) Ordinance (No. 2), the Civic Guards Ordinance (No. 8) and the War Risks (Goods) Insurance Ordinance (No. 9), whose purpose is sufficiently clear from their titles; less directly related to the war were the Coffee Market Expansion Ordinance (No. 13), designed to cope with loss of foreign markets, and several Ordinances relating to coinage and currency, including No. 4, whereby one-rupee notes were put into circulation. The Post Office (Amendment) Ordinance (No. 1) was necessitated by an emergency of a different kind, viz., delay in the passage of the Finance Bill for 1940-41, which threatened to prevent new postage rates from coming into force on April 1, 1940, the commencement of the financial year; to secure continuity, the new rates were enforced by the Ordinance from that date up to the passing of the Bill.

Regulations.—Under ss. 95 and 96 of the Government of India Act, 1935, the Governor-General is empowered in his discretion to legislate for the Chief Commissioners' Provinces of British Baluchistan and the Andaman Nicobar Islands. In 1940, nine such Regulations were made for British Baluchistan, five being amending measures and four substantive enactments. The amending measures related to octroi, land revenue administration and criminal procedure. The substantive enactments relate to control of arms, contempts of courts, the provision of a Court of Wards and regulation of merchandise marks; in each case the law in force in British India at large has been extended *mutatis mutandis* to British Baluchistan. Four regulations were made for the Andaman Nicobar Islands, one being amending and the rest substantive.

The amending Regulation adapts a provision of the Indian Motor Vehicles Act, 1939, to local conditions; the substantive enactments provide for taxation of motor vehicles, for prevention of opium smoking and for the establishment of Civil Courts.

Acts passed by the Central Legislature

Agriculture.—The Agricultural Produce Cess Act (No. 27) levies an additional duty *ad valorem* at the rate of one-half of one per cent. on specified agricultural commodities, produced in India and not already subject to any export duty, with the object of securing a steady annual income to the Imperial Council of Agricultural Research for its research work. Previously the Council had been entirely dependent upon grants of uncertain amounts made by the Central Government from time to time.

Coinage.—The Indian Coinage (Amendment) Act (No. 6) by reducing the fineness of the silver quarter-rupee to one-half silver, enables the Government to meet the greatly increased demand for small coin resulting from rising commodity prices, while avoiding the waste involved in adhering to the previous fineness of eleven-twelfths silver. It may be mentioned that a later Ordinance (No. 6) reduces the fineness of silver rupee and half-rupee coins to the same extent.

Commerce and Business.—Of nine enactments under this head by far the most important is the Trade Marks Act (No. 5), a comprehensive measure of 85 sections divided into 9 chapters. Although it was first mooted as long ago as 1877, the preparation of this statute could not be seriously commenced until 1938, when the opposition of a majority of the business organizations in India was finally overcome by the realisation of the increasing piracy of British trade marks by other foreign manufacturers, and the evident need for protection, both at home and abroad, of Indian trade marks, which were growing rapidly more numerous with the great expansion of industry. The Act is based generally on the U.K. Trade Marks Act, 1938. The principal Register of Trade Marks will be in Calcutta, and a branch Registry, for textile marks only, in Bombay. Registration of trade marks is allowed only after scrutiny in various intrinsic respects, and after an opportunity has been given to interested parties to prefer objections. It confers the right of exclusive user, against all persons except holders of rights acquired by prior use. An entry in the Register is to be *prima facie* evidence of valid registration for seven years, and thereafter becomes conclusive proof to that effect, subject to rebuttal only on the grounds of fraud and intrinsic inadmissibility. Legal protection is withheld from all unregistered trade marks, except those in continuous use since before February 25, 1937, and those which have been refused registration within the five-year period following the commencement of the Act. The date of commencement has still to be notified ; meanwhile, the only operative provision of the Act is one enabling the Central Government to prescribe procedure for deposit of trade marks. Rules are being framed, and when these are ready the Act will be put into force.

Insurance.—The Insurance (Amendment) Act (No. 20), is a substantial amending measure designed to remove flaws and administrative difficulties brought to light in the early working of the new Insurance Act of 1938. The position in regard to registration of insurers is clarified, the insurer's duties of making deposits with the Reserve Bank and of investing a proportion of their assets in " approved securities " are more exactly defined, and the distinction between provident societies and insurance proper is more accurately drawn. The onerous duties imposed by the Insurance Act on the Superintendent of Insurance are lightened by provisions enabling him to delegate his powers, and to " stagger " the dates of renewal of insurance agents' licences, so as to distribute this branch of the work over the whole year. The statutory period of one month for which new rules under the parent Act must be laid before the Central Legislature may now be comprised in two or more sessions. Finally, the Central Government may include Government securities of Indian States in the list of " approved " securities, provided such States allow corresponding benefits to insurers established in British India doing business in these States.

Companies.—Two measures affect companies. The Indian Companies (Amendment) Act (No. 36) makes provision for the custody, through the Reserve Bank of India, of unclaimed dividends and undistributed assets of companies in liquidation, and for their subsequent disposal on lines similar to those of English Company law. The War Donations and Investment (Companies) Act (No. 37) enables registered companies to make contributions to War Funds, notwithstanding the absence of authority in their Memoranda of Association for this purpose, and validates such contributions already made.

Banks.—Three Acts, Nos. 9, 13 and 38, amend the Reserve Bank of India Act, 1934 ; the first enables the Reserve Bank to act as the Indian agent of the Ceylon Board of Commissioners of Currency and to make advances to the Board ; the second limits individual holdings of shares in the Bank to 200, with a view to prevent further concentration of shares and consequent sterilisation of voting strength on the Central Board of the Bank which was intended to be on as broad a basis as possible ; while the third, in the interests of depositors and of sound banking in general, replaces the sanction attaching to the duty of scheduled banks to maintain a minimum statutory balance with the Reserve Bank, namely, payment of penal interest on the amount of default, which had proved inadequate for the purpose, by a heavy recurring fine for directors and officers of any bank which fails, after a default, to bring up its balance to the statutory minimum by the date fixed for the next return. It also enables the Reserve Bank to prohibit the receipt of fresh deposits by the defaulting bank, under pain of further fines. Another minor measure affecting the Reserve Bank is the Reserve Bank (Closing of Annual Accounts) Act (No. 7) ; it makes the date of closing of the annual accounts June 30 instead of December 31, which is in the middle of the busy season.

Contract is affected by the Indian Sale of Goods (Amendment) Act (No. 41), which re-enacts in the Sale of Goods Act in a more comprehensive form a provision hitherto contained in the Indian Tariff Act permitting the addition to or deduction from a contract price of an increase or decrease in duty imposed after the making of the contract. A judicial decision holding that the provision did not apply when the duty was a duty of excise was responsible for this amending Act.

Defence.—There are in all eight measures relating to this subject. Four of them are new, and the first calling for mention is the Foreigners Act (No. 2), which must be distinguished from the Registration of Foreigners Act, 1939. It replaces and continues the operation of an Ordinance promulgated at the commencement of the war. The Act restricts and controls the entry into, exit from and movements and activities within, British India of foreigners, and also provides for internment where necessary. Power to exempt from the operation of the Act is given to the Central Government, while the burden of proving inapplicability is placed upon an alleged foreigner. Severe penalties are imposed on those who contravene the Act, and summary powers of enforcement are given to the police and prescribed authorities.

The Registration (Emergency Powers) Act (No. 1) similarly replaces an Ordinance and requires registration of all European British subjects between the ages of 16 and 50 who are not already in the armed forces of the Crown, regular and territorial, or are not recognised ministers of religion.

The National Service (European British Subjects) Act (No. 18) provides for enforcing on European British subjects service in the armed forces of or in a civil capacity under the Crown. National Service Advisory Committees are set up to enquire into fitness for national service and to assist Military Commanders to obtain their requirements in man-power. A duty is cast upon employers to re-employ persons called up for national service or required to or permitted by the employer to enter the armed forces of the Crown. Questions arising thereout are to be settled by separately constituted tribunals.

A short enactment, the Royal Indian Navy (Extension of Service) Act (No. 3), extends by a maximum period of 5 years service which would otherwise terminate during the course of the war.

Two Acts, Nos. 29 and 30, amend the Indian Navy Discipline Act, the first providing for minor punishments similar to those of the United Kingdom Act, while the second is consequential on the separation of Burma from India, when the new Constitution came into force. The Defence of India (Amendment) Act (No. 19) and the Indian Works of Defence (Amendment) Act (No. 28) are not worth special comment.

Fiscal.—Of eight Acts under this head only one is a new measure, viz., the Excess Profits Tax Act (No. 15), and it is by far the most important. This Act closely follows the scheme of the similar tax imposed in the United Kingdom by the Finance (No. 2) Act of 1939. It imposes a levy of fifty per cent. of " excess profits " over and above " standard profits," viz., either profits earned during a " standard period " in the past (the assessee may choose any one of five such periods) or, where computation of such profits is impossible, a percentage on the capital. It is applicable to all income accruing or received in British India, with the sole exception of profits earned wholly outside British India by businesses which are not controlled in India. Relief in respect of similar taxation in the United Kingdom or any British Dominion or Indian State is to be based on reciprocity ; in respect of other countries, the assessee is to be allowed half of the lesser of the two sums paid in the foreign country and in British India respectively. Except for an independent Board of Referees, provided for revision of standard profits assessments by departmental officials, the administrative authorities for the Act are the corresponding authorities under the Income Tax Act, and this furnishes the reason for the slight assistance derived in the drawing of the Act from the earlier (Indian) Excess Profits Duty Act, 1919, which was adapted to a wholly different collecting agency, viz., the District Collectors of land revenue, who were then also Collectors of income tax. Three schedules to the Act contain detailed rules for the computation of profits and capital. It has been amended, in order to remedy certain hardships and anomalies which experience had brought to light, by Act No. 42, whose provisions resemble those of the corresponding United Kingdom Amending Act of 1940.

The Indian Finance Act, 1940 (XVI of 1940) is in the usual form. It provides for increases in the import and excise duties on motor spirit and in the excise duty on sugar (excepting certain indigenous varieties), and for the continuance of the existing rates of income tax, super tax, salt duty and inland postage during the budgetary year. Income tax, super tax, and postal rates were increased later in the year by the Governor-General's Act, to which reference has already been made.

The Income-tax Act, 1922, is further amended by two Acts, Nos. 12 and 40. The former, in addition to minor emendations, removes doubts created by a judicial decision regarding the jurisdiction of income-tax officers, and secures the provisional operation of the parent Act after April 1 in any year, should the Finance Bill not have been passed by the Legislature before that date. Act No. 40 amends the provisions relating to income-tax authorities and the Appellate Tribunal, and, while removing a number of defects in the parent Act and its Schedule, gives relief to the tax-payer in certain important respects. Tariff amendments are contained in Acts Nos. 21 and 22. The former imposes a duty of 3 per cent. *ad valorem* on imports of wattle bark, in order to safeguard Government against possible loss on liquidation of a large reserve of such bark created by the War Supply Board. The latter continues for another year protective duties on wheat, wheat flour and broken rice, and for a further two years, similar duties on silk and certain silk goods.

The Motor Spirits (Duties) Amendment Act (No. 39) is a result of the increasing production of power alcohol, and includes power alcohol in the definition of " motor spirit " with a view to facilitate the levying and collection of duty thereon.

Industry and Labour.—The practice of all—in contracting in mines, with its main eye to profit, and consequent neglect of safety and efficient working, rendered it desirable to make owners alone responsible for the salary and wages of the manager, the supervising staff and in particular those concerned with raising and lowering of persons. Act No. 24 adds a new rule-making power to the Indian Mines Act, 1923, to provide for this. Act No. 11 amends the Coal Mines Safety (Stowing) Act, 1939, by enabling the Stowing Fund to be applied to other safety measures besides stowing, *e.g.*, extinguishing of fires and prevention of inundation. Some minor amendments are also included.

Child welfare and safety is the concern of the Factories (Amendment) Act (No. 17) ; it extends the provisions of the Factories Act, 1934, to small power-operated factories, employing between 10 and 19 persons, provided they include a child or children. The Provincial Governments are also empowered to apply the Act by notification to even smaller factories employing children.

Law and Justice.—Two Acts affect civil law and two criminal law. The most important deals with arbitration, the law relating to which had been in an unsatisfactory state for many years. The Arbitration Act (No. 10) met with general approval, and passed through the Legislature with but little change from the original proposals. It consolidates and amends the law relating to arbitration in British India. This was to be found substantially in two enactments, the Arbitration Act of 1899 (based on the English Act of 1889) and the second Schedule to the Code of Civil Procedure. The former was limited in operation to the Presidency towns of Calcutta, Bombay and Madras, and certain notified business areas and applied only to arbitrations without the intervention of a court ; the latter dealt with arbitration outside the above Act, mostly providing for arbitration in suits, with only brief provisions for arbitration without the intervention of a court. The Act makes one law for the whole country, embodying with necessary modifications and applying generally the provisions of both previous enactments, opportunity also being taken to clarify doubtful points and remedy existing defects in working. Statutory arbitration has, so far as not repugnant, been brought within the purview of the Act, and in general the

English Amending Act of 1934 has been followed. It was not, however, thought that Indian conditions warranted arbitrators being empowered to order specific performance of contracts, other than those relating to land.

The Code of Civil Procedure (Amendment) Act (No. 34) corrects an error which had crept into s. 29 of the Code in the process of adaptation to the new Constitution, and extends the existing obligation on British Indian courts in respect of the service of summons issued by certain classes of courts established outside British India, to all other civil processes issued by such courts.

Consequent on a reciprocal agreement with Burma, the Code of Criminal Procedure (Amendment) Act (No. 35) provides for issue of commissions to Burma for examination of witnesses resident there, whose evidence is required in a criminal case being heard in British India. The separation of Burma from India meant that the provisions of the Code of Criminal Procedure relating to issue of commissions no longer applied to residents in Burma *vis-à-vis* trials in British India. The Offences on Ships and Aircraft Act (No. 4) amends the Indian Penal Code and Code of Criminal Procedure so as to extend the jurisdiction of British Indian courts to offences committed on a ship or aircraft registered in British India wherever the ship or aircraft may be.

Public Health.—The danger to health arising from the increase of deleterious drugs and patent medicines in the Indian market rendered all-India control essential. Legislation to this end required prior authority from the Provinces, which was obtained under s. 103 of the Constitution Act, since although import from abroad is in the Central field, internal manufacture and distribution is in the Provincial field. The Drugs Act (No. 23) provides for the establishment of an Advisory Technical Board, a Consultative Committee of nominees of the Central and Provincial Governments to advise on administrative matters, and a Central Drugs Laboratory to provide the necessary scientific assistance. Control of import of drugs is exclusively vested in the Central Government, to be exercised through the medium of import licences for prescribed drugs and prohibition of "misbranded," sub-standard and unwholesome drugs, and of patent medicines whose formulæ are not clearly indicated on their containers. This part of the Act will be administered mainly by customs officers. Internal manufacture and distribution of drugs and patent medicines is placed under the exclusive control of the Provincial Government, subject, in general, to provisions for licensing and prohibition similar to those obtaining in the case of import. Such control is to be exercised through Inspectors, who will be aided by Government analysts.

Miscellaneous.—The Motor Vehicles (Amendment) Act (No. 26) clarifies doubts as to the powers of the Regional Transport Authorities, revealed in the working of the main Act. The Petroleum (Amendment) Act (No. 25) removes a doubt, created by a judicial decision, on the question whether the limit of unlicensed possession of petrol by any one person is 20 gallons, however many motor vehicles he may possess, and relieves the Calcutta and Bombay Commissioners of Police of the duty, already resting on Coroners under the Coroners Act, 1871, of holding inquiries into deaths caused by explosions of petroleum. The Indian Emigration (Amendment) Act (No. 8) gives powers to the police to arrest without warrant persons leaving India without licence for the purpose of unskilled work; this power was previously exercisable only in respect of emigrants into which class such persons did not fall. Opportunity was also taken to give Protectors of Emigrants the same powers for the prevention of smuggling on ships as are possessed by customs officers. The Cantonments (Amendment) Act (No. 31) removes certain administrative difficulties in the working of Cantonment Boards, and in particular makes subjects of Indian States eligible to vote, if otherwise qualified. The Indian Registration (Amendment) Act (No. 33) fills a gap in the machinery provided by the parent Act for the indexing of immovable property. The Repealing and Amending Act (No. 32) improves the Statute Book by expurgation, either complete or partial, of no less than 36 Acts and Regulations enacted in the period 1836-1936, which are now " dead " law, and by emendation of 14 others, by way of adaptation to recent enactments or correction of verbal and numerical errors.

The only Act of 1940 passed on the initiation of a non-official member was the Parsi Marriage and Divorce (Amendment) Act (No. 14), which makes it clear that the payment of alimony and maintenance to a divorced woman subject to the Act is conditional upon her remaining chaste and unmarried, and empowers the court to vary or rescind its order for such payment if these conditions are not satisfied.

1941

[*Contributed by* SIR G. H. SPENCE, C.S.I.]

NO constitutional change took place in 1941, nor did any occasion arise for the Governor-General to invoke the special powers conferred on him by s. 67 B of the old Government of India Act as continued in force by s. 317 of the Government of India Act, 1935. The Legislative output for the year under review consists of 13 Ordinances, 7 Regulations and 27 Acts passed by the Central Legislature.

Ordinances.—In all thirteen Ordinances were promulgated by the Governor-General in the exercise of his powers under s. 72 of the old Government of India Act, as set out in the Ninth Schedule to the Act of 1935. The Reserve Bank of India (Amendment) Ordinance (III of 1941) removed the limit placed by the Reserve Bank of India Act, 1934, on the Government of India rupee securities held by the Issue Branch of the Bank. The Air Raid Precautions Services Ordinance (IV of 1941) provided for the constitution of A.R.P. services on a voluntary basis. The State Prisoners (Detention of Lunatics) Ordinance (V of 1941) legalises the reception in lunatic asylums of State prisoners found to be insane. The War Injuries Ordinance (VII of 1941) empowered the Government of India to make a scheme for the grant of relief to gainfully occupied persons and civil defence volunteers sustaining war injuries. The Indian Navy (Discipline) Amendment Ordinance (IX of 1941) makes an addition to the offences triable in time of war by a disciplinary court in lieu of by court martial. The Active Service Ordinance (X of 1941) provides that all members of His Majesty's forces and their followers shall be deemed to be on active service for the duration of the war. The Essential Services (Maintenance) Ordinance (XI of 1941) renders punishable persons who abandon an employment or class of employment declared to be essential for securing the defence of British India, the public safety or the maintenance of supplies or services necessary to the life of the community. The remaining six Ordinances made relatively minor amendments in Ordinances and Acts of the previous year.

Regulations.—Seven Regulations were made in 1941, six for British Baluchistan and one for the Andamans. They call for no remarks.

Acts passed by the Central Legislature.—The legislation enacted by the Central Legislature in 1941 comprised twenty-seven Acts, of which as many as sixteen were Amending Acts. The Acts cover a wide field and will be dealt with in groups according to their subject matter.

Law and Justice.—The Code of Criminal Procedure (Amendment) Act 1941 (XIV of 1941) deals with a question which had been a source of difficulty for very many years, namely, the problem of securing the presence before a British Indian court or a court in an area outside British India commonly known as an administered area of an accused person who is in an administered area or British India, as the case may be. The Act empowers British Indian courts to send a summons or warrant for service by a court in the administered area and to execute a summons or warrant sent to it for service by a court in an administered area. Corresponding provision in the converse sense has been made in the law of the various administered areas. The Code of Criminal Procedure (Second Amendment) Act, 1941 (XV of 1941) resolves a conflict of judicial opinion in regard to the effect of s. 162 of the Code on s. 27 of the Indian Evidence Act. S. 162 of the Code prohibits the use at an inquiry or trial of a statement made by any person to a police officer in the course of an investigation. S. 27 of the Indian Evidence Act provides (by way of exception to the general rule that no confession made by any person while he is in the custody of a police officer shall be proved as against such person) that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved. In I.L.R. 1939 Patna 234 the Privy Council held—differing from what had been the prevalent view of the Indian High Courts—that the prohibition in s. 162 of the Code extended to statements made by an accused person, but they left open the question whether the section repealed *pro tanto* s. 27 of the Indian Evidence Act or whether the last-named section prevailed on the footing that it was a " special law " within the meaning of s. 1 (2) of the Code. Divergent views were subsequently taken by different High Courts on the question so left open and the Act resolves the confusion by inserting in s. 162 of the Code provision that nothing therein shall affect section 27 of the Indian Evidence Act. The Federal Court Act, 1941 (XXI of 1914) was sponsored by a private member, but received the support of Government. The Government of India (Adaptation of Laws) Order, 1937, inserted in the Code of Civil Procedure provision with the effect of rendering the procedure governing the presentation of appeals to the Privy Council applicable with certain modifications to appeals to the Federal Court under s. 205 of the Constitution Act. The result proved unsatisfactory in practice and was criticised by the Federal Court in its decision No. 15 of 1939. The Act under review accordingly repeals the provisions inserted by the Adaptation Order in the Code of Civil Procedure and by a provision deriving from s. 215 of the Constitution Act empowers the Federal Court to make rules for regulating the presentation and prosecution of appeals lying in that Court, including rules relating to the furnishing of security for costs, the proceedings, if any, to be had in High Courts in connection with such appeals, and the preparation and transmission to the Federal Court of the records in such appeals.

Trade and Commerce.—Important changes were made in the Insurance Law by Acts I and XIII of 1941.[1] The first Act reduces by half, for the duration of the war and one year thereafter, the instalments of deposit due from certain life insurance companies of recent origin and modest activities. These instalments being arbitrary amounts have no relationship to the volume of business and under war conditions became unduly burdensome.

The second Act is a substantial amending measure designed to remove flaws noticed and administrative difficulties experienced in the working of the Insurance Act, 1938. The provisions relating to the election of policyholders' directors and those relating to the guaranteed surrender values of life insurance policies are clarified. Provision is made for the levy of an annual fee for renewal of registration of insurers and provident societies and for increasing the fee charged for agents' licences in order to make the realisations under the Act cover part of the present direct cost of administration. The provisions applicable to provident societies are brought into line with those applicable to insurers in certain respects where co-ordination was previously lacking. An important provision in the interests of policyholders is that no dividend shall be paid to the shareholders of an insurer and no payment shall be made in service of debentures out of the life insurance fund unless it contains an actuarial surplus statutorily disclosed. Separation of accounts, actuarial valuation and returns can be called for in the case of certain sub-classes of miscellaneous insurance business as are prescribed by the Central Government. Finally it is provided that the compulsory closing down of business on the dividing principle shall be carried out under proper actuarial advice.

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[1] *Contributed by* J. H. Thomas, Esq., *Superintendent of Insurance.*

Two Acts were passed relating to trade marks. The Indian Merchandise Marks (Amendment) Act (II of 1941) brings the provisions of the principal Act of 1889 into accord with modern requirements. In particular it provides for the stamping of certain particulars on piece goods, cotton yarn and thread before they are removed from the factory for sale, and empowers Government to require imported goods of specified classifications to have affixed to them an indication of the country or place in which they were made or produced. The Trade Marks (Amendment) Act (XXVII of 1941) amends the principal Act of the previous year by converting the Bombay branch of the Trade Marks Registry established thereby into a separate Registry with exclusive jurisdiction in respect of the marking of textile goods on the application of a person having his principal place in a province included within the jurisdiction of the Bombay Registry.

The Petroleum (Amendment) Act (III of 1941) renders the fine provided for a contravention of the conditions of a licence which had previously been imposable only on the holder of a licence imposable also on a licence holder's agent who is responsible for the contravention.

The Indian Companies (Amendment) Act (XXVI of 1941) deals with a difficulty arising from the delay to which mails are subject in war conditions by empowering the Registrar to extend the period for the filing of returns of allotments of shares. It also enables companies to deposit the Provident Fund moneys of their employees in a Post Office Savings Bank as an alternative to investing them in Trust securities.

The Indian Merchant Shipping (Amendment) Act (XXII of 1941), which was sponsored by a private member, increases the minimum space to be provided for pilgrims on pilgrim ships. During the course of the Bill's passage provision was inserted to defer the coming into force of the amendments to a date to be notified by the Central Government and it is not proposed to bring the amendments into force until after the end of the war.

Fiscal.—The Indian Finance Act (VII of 1941) fixes the rate of levy for the current year of taxes and charges already in force. The duty on salt was maintained at its normal level and the existing postal rates which in certain respects had been enhanced by the Emergency Indian Finance (No. 2) Act, 1940, were also maintained. The surcharge on income-tax and super-tax which the Act in question had imposed at a rate equivalent to one quarter for a complete year was increased to one third, the percentage of excess profits on which excess profits tax is leviable was raised from 50 to 66⅔ and increases were effected in the rates of the excise duty on matches and mechanical lighters and the import duty on artificial silk yarn and thread.

The Tyres (Excise Duty) Act X of 1941) imposed a new excise duty on pneumatic tyres and tubes at 10 per cent. *ad valorem.*

The two Tariff Acts (VIII and IX of 1941) extend the protective duty on iron and steel manufactures, silver thread and wire, sugar and wheat for a further period of one year.

Factories and Labour.—The Factories (Amendment) Act (XVI of 1941) amends s. 5 of the principal Act. It is an element in the definition of a factory that not less than twenty persons work therein, but s. 5 empowers the Provincial Government to declare to be a factory and thus bring within the scope of the Act places which otherwise answer to the description of a factory and in which not less than ten persons work. The Act under review removed certain imperfections disclosed by experience in the wording of this section.

The Mines Maternity Benefit Act (XIX of 1941) prohibits the employment in mines of a woman worker during four weeks following the day on which she is delivered of a child and entitles her to a maternity benefit of 8 annas for every day of absence from work during the four weeks before delivery and for each day of the four weeks after delivery. The Act further requires the whole of the period for which the maternity benefit is payable to be treated as a period of authorized absence.

Railway.—Two Railway Acts were passed. The Indian Railways (Amendment) Act (VI of 1941) seeks to render more effective the remedies provided by the principal Act against the alarmingly prevalent practice of travelling without a ticket. In particular the offence of travelling without a ticket is made punishable with imprisonment in lieu of fine which had previously been the only punishment awardable and which had proved an entirely ineffective deterrent.

The Railways (Local Authorities Taxation) Act, 1941 (XXV of 1941) removes certain impediments to equitable arrangements in respect of the liability to taxation levied in a province by local authorities of property belonging to a State-owned railway. The Indian law on the relevant subject-matter is contained in s. 135 of the Indian Railways Act, 1890, which provides that a railway administration shall not be liable to pay any such tax unless the Central Government has declared it to be so liable and that a notification declaring liability may be revoked or amended at any time. In its application to State-owned railways this section was put out of operation by s. 154 of the Constitution Act in two directions. S. 154 provides, subject to a saving of liabilities existing immediately before April 1, 1937, that property vested in His Majesty for the purposes of the Central Government shall be exempt from all taxes imposed by, or by any authority within, a province and it thus became impossible for the Central Government to make new declarations of liability in respect of State-owned railway property. In the second place, the saving of liabilities existing immediately before April 1, 1937, precluded the Central Government from revoking or modifying declarations of liability effected before that date. The substantive prohibition of the taxing of property vested in His Majesty for the purposes of the Central Government and the saving of existing liabilities are, however, both expressed by s. 154 to be subject to provision to be made to the contrary by the Central Legislature and the Act under review represents an exercise of the powers so accruing to the Central Legislature. The short effect of the Act is to restore in respect of State-owned railways the position which prevailed previously in respect thereof under the operation of s. 135 of the Indian Railways Act.

Taxation.—The changes effected by the Indian Income-tax (Amendment) Act (XXIII of 1941)[1] are mostly in favour of the taxpayer. As the Act was passed towards the end of the year, some of the amendments operate with effect from the assessment for the year 1942-43 and do not apply to assessments for earlier years. The important amendments excluding those of a clarificatory nature are as follows:

The exemption already conferred by notification under s. 60 (1) of the principal Act on the official allowance of the accredited representative of an Indian State, Consuls of foreign States and Trade Commissioners of some countries has been incorporated in the statute. In general, the salary of any official representatives of the Dominions or Foreign Governments is now exempt on the basis of reciprocity, but the salary of a member of their staff is exempt only if such member is a subject of the country represented. Exemption has also been granted to the salaries and such other income of the members of Nepalese and Indian State Forces as becomes liable during the period of their service in British India with His Majesty's Forces.

Another exemption of considerable importance is in respect of the income accruing or arising in an Indian State to residents in British India. This income is, however, to be included in the " total income " for the purpose of calculating the rates of income-tax and super-tax applicable to the other income, and is also chargeable when received or brought into British India or if deemed to accrue or arise in British India under the provisions of the Act. This amendment is made with a view to securing a satisfactory and equitable basis for reciprocal double income-tax relief arrangements with the Indian States.

An additional criterion of residence is introduced to remove hardship arising in the case of an individual being treated as non-resident if he arrives late in the year so as not to satisfy the other condition of " residence." If the individual is likely to remain in British India for not less than three years, he would be treated as not ordinarily resident and assessed only on his British Indian income without any account being taken of his foreign income unless it is received or brought into British India.

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[1] *Contributed by* J. P. Sheehy, Esq., *Member Central Board of Revenue.*

A radical change is made in the method of computing the " written-down-value " of an asset. While the Amendment Act of 1939 required the deduction from the original cost of depreciation allowance *due*, whether actually allowed or not, the amendment now made requires the deduction of only the depreciation actually allowed in calculating the written-down-value of an asset. The benefit of depreciation is also extended in respect of a building the letting of which is inseparable from the letting of machinery or furniture. Another concession is that where there is a carry-forward of both unabsorbed depreciation and loss, set-off is to be allowed first of the latter, as there is no restriction of time to the set-off of the unabsorbed depreciation.

The widespread demand for the restoration of the Commissioner's revisional powers, which ceased in January, 1941, on the setting up of the Income-tax Appellate Tribunal, has also been conceded. This would be of considerable help in small cases, but to avoid frivolous applications a fee of Rs. 25 is prescribed. The Commissioner can pass an order only in favour of the assessee and is precluded from passing an order prejudicial to him.

Relief from taxation of income-tax and super-tax on discontinuance of succession of a business, profession or vocation assessed under the Income-tax Act of 1918 has been withdrawn in cases in which it would not be admissible on the principles on which the relief was designed. To cope with difficulties experienced in the recovery of tax, the Collector's powers have been enlarged to give him the same powers as a Civil Court has under the Code of Civil Procedure for the purpose of the recovery of an amount due under a decree.

Under the Finance Act of 1941 the rate of tax chargeable was increased from 50 per cent. to 66⅔ per cent. as from April 1, 1941. The Excess Profits Tax (Amendment) Act (XI of 1941)[1] provides the necessary machinery for dealing with the charge of tax in respect of chargeable accounting periods falling partly before and partly after the end of March, 1941, and amends the provisions of the principal Act so as to secure that, in the long run, deficiencies of profits occurring in a 50 per cent. period, *i.e.*, before April 1, are, as far as possible, set against excess profits chargeable at that rate, while, as far as possible, deficiencies of profit occurring in a 66⅔ per cent. period are set against excess profits chargeable at that rate.

In order to provide assessees with some reserve to meet post-war conditions, it was enacted in the Finance Act, 1942, that, as regards any excess profits tax charged at the rate of 66⅔ per cent., if the assessee deposited with the Government a further sum not exceeding one-fifth of the amount of such tax (such deposit to carry interest at 2 per cent. per annum and to be repaid within 12 months of the end of the present hostilities), the assessee is to be repaid a sum equal to one-tenth of the amount of the excess profits tax in question or to one-half of the sum deposited, whichever is the less. Such repayment was to be made at such date and subject to such conditions as might thereafter be determined. It has, however, been since decided that repayment will be made, without imposing any conditions, not later than 3 years after the date of cessation of the present hostilities, but that where the money is required by the assessee for some purpose approved by the Government, repayment will be made within a year of that date. In view of the fact that where profits are assessable in both the United Kingdom and British India, the rate of tax payable in the former country is

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[1] The summary of this Act is contributed by C. M. Ayres, Esq., C.J.E., Excess Profits Tax Adviser.

100 per cent., repayment of one-tenth of the excess profits tax charged in India at 66⅔ per cent. on those profits is to be made without requiring any deposit.

Further amendments were made to the principal Act by the Excess Profits Tax (Second Amendment) Act (XXIV of 1941), as follows:—

As from April 1, 1941, all borrowed money employed in a business is to be included in the average capital of the business with the corollary that any interest or other consideration paid for the use thereof is to be included in profits.

The provision regarding " artificial transactions " was recast so as to make it more practically effective and additional powers were given to the Department to deal with transactions having for their main purpose the avoidance or reduction of excess profits tax liability. These provisions were supplemented by giving power to the Department to disallow any expenditure that is unnecessary and unreasonable, having regard to the requirements of the business and, in the case of directors' fees or other payments for services, to the actual services rendered.

Business profits accruing or arising in an Indian State are excluded from the operation of the Act, and relief is provided for the premature exhaustion by increased output of mineral deposits, the winning of which is of exceptional importance for war purposes.

The Professions Tax Limitation Act (XX of 1941) which was sponsored by a private member, resulted from the insertion of a new section (142 A) in the Constitution Act directed to the removal of doubts as to the position of taxes on professions, trades, callings or employments in relation to Income-tax. The section provides that no Provincial law imposing what is commonly called a professions tax for the benefit of a Province or of a local authority shall be invalid on the ground that it relates to a tax on income, but imposes a maximum of Rs. 50 per annum on any one such tax subject to the continuance, pending provision to the contrary by a Law of the Central Legislature, of any higher rate at which such tax levied in the year ending on March 31, 1939. In the Act under review the Indian Legislature exercised its power of intervention by terminating with effect from the financial year 1941-42 the saving in s. 142 A of the Constitution Act of levy at rates higher than Rs. 50 per annum. Certain specific taxes were, however, exempted from the operation of the Act and the taxes so exempted will continue, pending a further intervention by the Central Legislature to enjoy the benefit of the saving in the Constitution Act.

Local and Personal.—Act XVIII alters the composition of the Board of Trustees of the Port of Madras.

Amendment Act XVII deals with the constitution of the Aligarh Muslim University.

Act XII seeks to restrict undesirable developments in the direction of what is commonly known as " ribbon " development in areas adjoining the Delhi Urban area but outside Municipal limits.

Berar.—The Berar Laws Act 1941 (IV of 1941) is directed to the removal of certain anomalies attaching to the position of Berar in relation to Indian Legislation enacted before the commencement of the Constitution Act on April 1, 1937. Berar is a territory under the sovereignty of His Exalted Highness the Nizam of Hyderabad. It had for many years been administered by virtue of certain Agreements between His Majesty and His Exalted Highness together with the Central Provinces, but it was only with the commencement of the Constitution Act of which the relevant section (47) rested on a further Agreement between His Majesty and His Exalted Highness that the Central Legislature and the Legislature of the Central Provinces (now known as the Central Provinces and Berar) became competent to legislate for Berar. The technicalities of the position and the object and effect of the Act under review were explained in detail in the Statement of Objects and Reasons appended to the Bill, as follows:—

" Though the provisions of many Central Acts are applicable to Berar, this result does not flow from the British Indian Act itself being *proprio vigore* operative in Berar but is achieved by the application to Berar by Order made under the Indian (Foreign Jurisdiction) Order in Council, 1902, of each such Act, often with certain modifications of the form in which the Act is in force in British India. Certain administrative inconveniences result from this. The Act as in force in British India is distinct from the Act as in force in Berar, the former being an enactment applying *proprio vigore* to British India but not to Berar, the latter consisting of the provisions of the British Indian Act made applicable to Berar by Order under the Foreign Jurisdiction Order but not applicable to British India. Notifications and Statutory Rules issued under identical provisions, operative both in British India and in Berar, have accordingly to be issued separately for British India and for Berar, and a similar dual process must attend any subsequent amendment of such notifications or rules. The repeal in British India of an Act made applicable to Berar does not automatically make the Act inoperative in Berar.

Since the commencement of Part III of the Government of India Act, 1935, on April 1, 1937, Berar and the Central Provinces have been deemed to be one Governor's Province, and an Act passed after that date and expressed to extend to the whole of British India does extend *proprio vigore* to Berar.

The primary object of the present Bill is to assimilate the position of Central Acts passed before the 1st day of April, 1937, to that of those passed after that date and automatically in force in Berar, that is to say, by means of one comprehensive enactment to extend to and make operative *proprio vigore* in Berar Central Acts passed before the commencement of Part III of the Government of India Act, 1935, while simultaneously nullifying the Orders under the Foreign Jurisdiction Order in Council by virtue of which those Acts are operative in Berar. It is possible, now that the legislative competence of the Central Legislature is confined to matters enumerated in List I and List III of the Seventh Schedule to the Government of India Act, 1935, to achieve the result aimed at only in part by legislation in the Central Legislature. So far as the Central Legislature is incompetent to achieve the result completely, because the subject-matter of the Act to be extended is included in List II, it is anticipated that this Central legislation will be supplemented by Provincial legislation, and that the Central Act and the Provincial Act will come into operation simultaneously, each thus completing what the other left incomplete. Accordingly, the Acts to be extended to Berar are grouped in two separate Schedules, Schedules I and II, according as their subject-matter is relatable solely to List I and List III or only partly to those Lists and partly to List II.

In addition to Central Acts, the provisions of which are already applicable to Berar by virtue of Orders under the Foreign Jurisdiction Order in Council, Schedules I and II also contain a few Acts which it seems advisable to take the opportunity afforded by this Bill to extend to Berar.

Assam Rifles.—The Assam Rifles Act (V of 1941) was the result of a conclusion that on a correct view the Assam Rifles are subject to Central jurisdiction. The Assam Rifles are an irregular force employed, partly within but mainly without the Province of Assam, for the maintenance of law and order on the North East Frontier of India. In terms of the Legislative Lists in the Seventh Schedule to the Constitution Act, the Assam Rifles would be a Provincial responsibility if, but only if, on a correct view they were maintained by the Provincial Government of Assam. Otherwise they are a Central responsibility, and as they are in fact financed to a preponderating extent by the Central Government, it was felt to be impossible to regard them as maintained by the Provincial Government. It therefore became necessary to replace the Provincial Act by which their discipline had hitherto been regulated by a Central Act which for the most part followed the provisions of the former Provincial Act.

2. MADRAS

[*Contributed by* P. APPU NAIR, ESQ., O.B.E.]

Commercial Crops.—Act III removes certain practical difficulties felt in the administration of the principal Act, *viz.*, the Madras Commercial Crops Markets Act, 1933.

Immoral Traffic.—Act VIII amends the Madras Suppression of Immoral Traffic Act, 1930, so as to enable a police officer entering a brothel, in pursuance of a Magistrate's order, to rescue a particular minor girl, to rescue also other minor girls found in the brothel, if the officer is satisfied that they are living in it, or are carrying on or being made to carry on the business of prostitution therein. A similar power of rescuing minor girls is also conferred on a police officer entering premises which, it is suspected, are being used for immoral purposes.

Irrigation.—Certain recent decisions of the Madras High Court having questioned the validity of the long-standing practice in regard to the levy of enhanced water-cess in certain cases under the Madras Irrigation Cess Act, 1865, Act VI was passed with the object of validating the existing practice with retrospective effect.

Legislature and Ministry.—Act X provides for the temporary repeal, for so long as the Proclamation suspending the Constitution in the Province is in force, of Madras Act IX of 1937 which fixed the salaries and allowances payable to Ministers, Parliamentary Secretaries, and officers and members of the Madras Legislature.

Act XII provides that no person shall be disqualified for being chosen as, or for being, a member of the Madras Legislature by reason only of his holding an office of profit in any branch of His Majesty's Forces or in the Defence Department of the Government of India.

Livestock Improvement.—Act XV gives effect to the recommendation of the Royal Commission on Agriculture in India, *viz.*, that bulls not required for breeding purposes should be castrated as early as possible. The Act is to be brought into force in such areas and for such periods as may be notified by the Government. The Act provides for a licence being obtained for keeping an uncastrated bull, after it has attained the prescribed age. A licence will be granted only if the bull can be safely used for breeding purposes, and may be revoked when this condition ceases to be fulfilled. The licensing officer is given power to inspect bulls and order their castration if necessary. Licences will be granted free of fee and castration will also be performed free of charge. The Act will not apply to bulls dedicated in good faith to a religious purpose.

Local Government.—In non-municipal areas, the fees to be levied on licences issued under the Places of Public Resort Act, 1888, and the conditions to be inserted in such licences, had hitherto to be determined by the local board concerned, whereas in municipal areas, they were determined by the Government.

Act I removes this distinction and places local boards on the same footing as municipalities, thus ensuring uniformity in the grant of licences and levy of fees under the Places of Public Resort Act.

Act XI provides for the constitution of an *ad hoc* statutory body, called the Mettur Township Committee, consisting of six members nominated by the Government or by an authority or officer empowered by them, to administer the municipal affairs of Mettur where the Mettur dam has been constructed. The Act gives power to the Government to apply to the township any of the provisions of the Madras District Municipalities Act, 1920, or of any other enactment in force in the Province, subject to such modifications, additions and restrictions as may be necessary. The object of the Act is to ensure the proper development of the township as it advances in industrial importance.

Act XIII extends the term of office of members of municipal councils and local boards in the Province up to November 1, 1941, as it was considered undesirable to hold elections in time of war.

Act XIV disqualifies persons who are in arrears of any kind to a municipal council or local board from standing for election thereto. All arrears up to and inclusive of the previous year will be taken into account for this purpose, but a bill or notice should have been duly served and the time specified in it for payment should also have expired. The Act also provides that a municipal councillor or member of a local board shall cease to hold office if he fails to pay his dues to the council or board within 3 months after a special notice requiring payment thereof is served upon him. The disqualification imposed by the Act will not, however, apply to defaults in the payment of amounts due from candidates or members in a fiduciary capacity.

Marriages Validation.—Act XVI validates all marriages solemnized, and all certificates of marriage granted to Indian Christians by a member of the American Baptist Mission between 1923 and 1940, during which period he continued to celebrate marriages and grant certificates as if his licence had not been revoked although it had been revoked in 1923.

Medical Degrees.—Act XX penalizes the use by medical practitioners of bogus titles implying qualifications in any system of medicine.

Motor Vehicles.—Act IX makes certain amendments to the Madras Motor Vehicles Taxation Act, 1931, which are consequential on the enactment by the Indian Legislature of the Motor Vehicles Act, 1939, in substitution for India Act VIII of 1914.

Police.—Act VII removes a discrepancy between the Madras City Police Act, 1888, and the Madras Traffic and Motor Vehicles Rules, regarding lighting-up time. The Act also abolishes the penalty of imprisonment for a breach of the lighting rules.

Prisons.—Act V provides for a prisoner who escapes or attempts to escape from a hospital or asylum to which he has been sent for treatment, being punished with imprisonment which may extend to two years or with fine, or with both. The Act also provides for the enforcement of bonds given by prisoners sent to hospitals or asylums or by their relatives or friends.

Rinderpest.—Act XIX provides for the following matters, namely, the duty of owners and persons in charge of animals and of veterinary practitioners to report cases of rinderpest to Inspectors; the compulsory inoculation of all animals in such places as may be notified by the Government and the regulation of their movement; the control of cattle markets and fairs and of traffic in infective animals; the examination and disposal of infective animals by veterinary surgeons; the disinfection of infected premises, vehicles, etc.; and the declaration of infected areas and places from which no animals, alive or dead, and no things used in connection with animals, may be removed without an Inspector's licence. The Act also lays down the procedure for enforcing its provisions and prescribes suitable penalties.

Taxation.—Act II reduced the General Sales Tax payable for the year beginning on April 1, 1940. In the case of persons whose annual turnover did not exceed Rs. 20,000 (£1,500), the tax payable during the year will be only Rs. 4 per mensem instead of Rs. 5 per mensem, and in the case of those whose annual turnover exceeds Rs. 20,000 the tax will be assessed at $\frac{1}{4}$ per cent. of the turnover instead of at $\frac{1}{2}$ per cent. thereof.

Act IV amends the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939, so as to provide for a more gradual and equitable scale of licence fees for wholesale dealers in tobacco whose turnover exceeds Rs. 3,000 (£225) per annum. The Act draws a distinction between brokers and commission agents, and reduces the fee for a broker's licence to Rs. 10. Provision is also made in the Act for preventing the evasion of certain provisions of the Act.

University.—Act XVII empowers the Syndicate of the Andhra University to delegate any of its powers either to its Vice-Chancellor or to a Committee consisting of its members or to the Finance Committee.

Village Courts.—Act XVIII enlarges the jurisdiction of village courts by bringing claims for taxes, fees and other sums due to local authorities within their scope. The Act also provides for the attachment of movable property either by the president or by any other member of the panchayat court empowered by the president.

1941

Twenty-four Acts were passed:

Canals and Public Ferries.—Act XX amends the principal Act so as to empower the Government to make rules for securing the safety of passengers conveyed across private ferries.

Elementary Education.—Act XV amends the principal Act so as to remove the statutory limit to the rate of the elementary education tax, and to provide that if the rate is increased in the area of any local authority, the Government are not obliged to contribute to its elementary education fund an amount exceeding the proceeds of the education tax, if any, which was being levied in the area of that local authority immediately before the commencement of the amending Act. It further provides that where education tax is levied as a surcharge on the tax on companies or profession tax, it should be subject to the limits specified in any law for the time being in force governing the local authority or prescribed by rules made under the principal Act.

Hackney Carriages.—Act I empowers the Commissioner of Police, Madras City, to limit the number of vehicles (including rickshaws) that may be registered in the City annually.

Industries and Factories.—Act II enables the Government to authorize the Board of Revenue to give grants up to Rs. 50 (about £40) in each case, for the encouragement of cottage industries.

Act VI amends the Factories Act, 1934, so as to limit the obligation of a certifying surgeon to examine a young person wishing to work in a factory only to cases where the factory manager gives a certificate that he will employ the person, if physically fit.

Local Government.—Act IV disqualifies persons who are in arrears to the Corporation of Madras from being elected to or holding the offices of councillors and aldermen in the Corporation.

Act VII provides that applications under the Madras City Municipal Act for a licence or permission or for registration, or for a renewal thereof, shall be made in all cases not less than 45 and not more than 90 days before the commencement of the period for which the licence, etc., is sought.

Act VIII empowers the Government to modify or cancel their decisions in disputes between local authorities. The Act also provides that such decisions or any modification or cancellation thereof shall be binding on the local authorities concerned and shall not be liable to be questioned in a Court of Law.

Act X confers on the Government the power to make rules regarding the conditions on which, and the mode in which, contracts may be made by or on behalf of municipal councils.

Act XII enables municipal councils and panchayats to farm out for periods not exceeding 3 years the collection of fees from public landing-places, halting-places and cart stands constructed by them.

Act XIV provides for the supersession by the Government of district boards for a maximum period of 3 years.

Act XVII extends up to April 1, 1942, the term of office of members of municipal councils and local boards in the Province, in order to provide for the elections taking place on the basis of fresh electoral rolls.

Marriages Validation.—Act V validates all marriages solemnized and all certificates of marriage granted to Indian Christians by Mr. C. Aaron of the Telugu Church Council of the South India United Church London Missionary Society between April 30, 1938, and August 19, 1940.

Act XXIV validates all marriages solemnized and all certificates of marriage granted to Indian Christians by Mr. Mayalur Lazarus of the Telugu Church Council of the South India United Church between January 6, 1939, and April 12, 1941.

Medical Registration.—Act XXI takes power to direct that the registration of a missionary doctor who does not possess the prescribed qualifications shall be in force only so long as he is actually employed in a Mission Hospital.

Police.—Act XIII amends the Madras City Police Act, 1888, so as to deal with the beggar nuisance in the city. Able-bodied beggars may be committed to a workhouse and others to a special home, for a period not exceeding three years. Able-bodied beggars may be released on their giving an undertaking not to beg in the city. Youthful beggars may be dealt with by the Juvenile Court.

Act XXII amends the principal Act for the exercise of more effective control over gaming in the city.

Act XXIII amends (1) the Madras City Police Act, 1888, so as to enable the Commissioner of Police to deal with the menace of certain moneylenders; and (2) the Madras City Police Act, 1888, and the Towns Nuisances Act, so as to stop the indiscriminate use of loud-speakers in public places.

Prohibition.—Act XI extends the provisions of the Prohibition Act (Madras Act X of 1937) to intoxicating drugs which are also dangerous drugs.

Proprietary Estates and Hereditary Village Offices.—Act XVIII amends the Madras Proprietary Estates Village Service Act, 1894, and the Madras Hereditary Village Offices Act, 1895, so as to remove certain defects in the principal Acts. The most important provision relates to the disqualification of insolvent persons from being appointed to or continuing in certain village offices.

Taxation.—Act III exempts from tax, with retrospective effect, sales of electrical energy to the Central Government and to Federal Railways.

Act IX continues for another year the reduction effected by Madras Act II of 1940 in the rate of tax leviable under the Madras General Sales Tax Act, 1939.

3. BOMBAY

[*Contributed by* P. N. MOOS, ESQ., *Secretary to the Government.*]

DURING the period between April 1, 1940, and March 31, 1941, the following Acts were made by the Governor of Bombay in exercise of the powers of the Bombay Legislature assumed by him under the Proclamation dated November 4, 1939, issued under s. 93 of the Government of India Act, 1935, and, having received the assent of the Governor or the Governor-General, as the case required, became law. The main purposes of each of the Acts are briefly stated below:—

Prohibition.—No. VI was necessitated by the decision of the Special Bench of the High Court in the case of Chinubhai Lalbhai *v.* Emperor (I.L.R., 1940, Bom. 587). The Special Bench held in this case that certain notifications issued by the Bombay Government under s. 14 B (2) of the Bombay Abkari Act, 1878, prohibiting within the areas of Ahmedabad and Bombay the possession by any person without a pass, permit or licence of any quantity of certain intoxicants were *ultra vires* and could not be lawfully issued under that section. It held that the natural meaning of the expression " any person or class of persons " used in s. 14 B (2) of the Act was a person designated by name or description or a class of persons designated. It also observed that the object of the Abkari Act was primarily to secure Abkari revenue and that there was nothing in the Act to suggest that the Legislature contemplated the introduction of total prohibition of intoxicants as a measure of social reform. To meet the objections raised by the High Court in the above case the Governor enacted this Act. By s. 3 of this Act the preamble of the original Abkari Act was amended by inserting therein the words " and whereas in order to promote, enforce and carry into effect the policy of Prohibition, it is necessary to prohibit the import, export, transport, manufacture, sale and possession of liquor and of intoxicating drugs in the Province of Bombay or in specified areas thereof." By s. 6 of the Act, for the words " any person or class of persons " in s. 14 B (2), the words " any individual or a class of or body of individuals or the public generally " were substituted. S. 7 of the Act gave retrospective effect to the amendments made by it. The main purposes of the Act were thus to make it clear that Prohibition is also one of the objects of the Act and to give power to the Government to prohibit the possession of intoxicants in the Province of Bombay or any specified areas thereof.

Legislature.—No. VII provides for the temporary repeal, with effect from July 1, 1940, and for so long as the Proclamation dated November 4, 1939, issued under s. 93 of the Government of India Act, 1935, remains in force, of Acts II and III of 1937, which fixed the rates of salaries and allowances payable to the officers and members of the Legislature.

Control of Securities.—Sub-s. (3) of s. 5 of the Bombay Securities Contracts Control Act, 1925, requires that rules made by a stock exchange shall be published one month before they are sanctioned by the Provincial Government. Act VIII of 1940 was made in order to empower Government to dispense with such previous publication under certain circumstances. A proviso has been added to the said sub-s. (3) of s. 5 providing that the Provincial Government may forthwith sanction any such rules notwithstanding that such rules have not been previously published, if the Provincial Government is of opinion that in the interest of trade it is necessary to give immediate sanction to such rules.

Famine Relief.—Section 6 of the Bombay Famine Relief Fund Act ,1936, provided for the investment of the amounts of the Bombay Famine Relief Fund in securities of the Central Government only. The section has been amended by No. IX so as to empower the Provincial Government to invest such amounts in any Government security as defined in s. 2 (*a*) of the Indian Securities Act, 1920, or in securities specified in clause (*c*) or (*d*) of s. 20 of the Indian Trusts Act, 1882.

Legislature.—By Act X, an amendment has been effected in the Bombay Legislature Members (Removal of Disqualifications) Act, providing for the removal of the disqualification on officers of the Army in India Reserve of Officers, the Auxiliary Force, India, the Indian Territorial Force or any branch of His Majesty's Naval, Military or Air Forces from becoming or continuing to be members of the Bombay Legislature.

Bombay Corporation.—Under the City of Bombay Municipal Act, 1888, the term of the members of the Corporation for the City of Bombay was due to expire on April 1, 1942. It was considered necessary to extend this term by No. 1 of 1941 till April 1, 1943, because of certain difficulties in preparing the electoral rolls and completing the necessary preliminaries in time for holding the elections according to the adult franchise scheme introduced by Bombay Act XIII of 1938.

Gambling.—No. II of 1941 was enacted to remove a loophole in the Bombay Prevention of Gambling Act. 1887. In certain cases which came before the High Court in appeal, the High Court held that the words " using such house " in the definition of the term " common gaming house " in s. 3 of the Bombay Prevention of Gambling Act, 1887, meant " using such house under some sort of title or right " and also that the words " having the use of any house " in s. 4 (*a*) of the Act bore a similar meaning. The effect of these decisions was that in the case of a place used for gaming purposes by a person who had no right over it there could be no conviction under s. 4 (*a*) of the Act. The Act has been amended so as to include in the expression " common gaming house " all places used for gaming purposes whether the person so using it has a right to use the same or not.

Census.—Act No. III of 1941 was enacted to provide for contributions being made by local authorities towards the expenses incurred in connection with the taking of the census in 1941. The Act empowered the Government of Bombay to direct a certain prescribed portion of the expenses incurred in connection with the taking of the census within the limits of a local authority to be charged to the funds of the authority and also provided for the payment of amount of such expenses in the prescribed manner.

Finance.—No. IV of 1941 was enacted to provide for the extension of the life of the Bombay Finance Act of 1932 by one more year subject to certain further amendments. The first amendment effected was in respect of Articles 33 and 58 in the First Schedule to the Indian Stamp Act, 1899. It was noticed that in the case of instruments of gifts and settlements which contained a power of revocation, the duty payable under these Articles was required to be calculated with reference to the value of the subject-matter of the gift or settlement as set forth in the instrument and not with reference to the value of the whole property to which the gift or the settlement relates. In several such cases of settlement the value set forth in the instrument was found to be only nominal. As Government was put to a substantial loss by such action, the two Articles have been suitably amended providing that the duty payable shall be on the value of the property which is the subject-matter of gift or settlement, and that where the instrument contained a power of revocation, the value of the property shall be determined, for the purposes of duty, as if no such provision were contained in the instrument. The next amendment carried out by this Act was in s. 22 of the Bombay Finance Act, regarding the rate of the immovable property tax leviable under Part VI of the Act. The rate was reduced by one-fifth of the original rate. The next amendment effected was in s. 27 of the Bombay Finance Act relating to the drawback and refund of the amount of immovable property tax. The section was amended so as to make the provisions thereof conform to the provisions of the Municipal Acts. A new s. 28 A was inserted in the Bombay Finance Act to provide for continuance of the application of Part VI of the Act to any of the notified areas specified in clause (iv) of s. 20 of the Act, on the conversion of any such area into a municipal district under the Bombay District Municipal Act, 1901, or a village under the Bombay Village Panchayats Act, 1933.

Rent Restriction.—No. V of 1941 extends for a further period of twelve months the life of the Bombay Rent Restriction Act of 1939. The Bombay Rent Restriction Act was enacted to restrict the increase of rent of certain premises in consequence of the levy of the Urban Immovable Property Tax. As the tax, though at a reduced rate, was to be continued for one more year, it was considered necessary to extend the period of this Act also by a further period of one year.

Agricultural Debtors Relief.—According to the original scheme of the Bombay Agricultural Debtors Relief Act, the Act was to be brought into force in the whole of the Province of Bombay except the town and island of Bombay. It was considered that the Act should in the first instance be brought into force in certain selected areas only. The Bombay Act No. VI of 1941 was therefore enacted, carrying out suitable amendments in the Bombay Agricultural Debtors Relief Act so as to enable Government to bring it into force in certain selected areas only.

Tenancy.—Like the Bombay Agricultural Debtors Relief Act, the Bombay Tenancy Act was also intended originally to be brought into force in the whole of the Province of Bombay except the City of Bombay. The Bombay Act No. VII of 1941 was enacted to amend the Bombay Tenancy Act so as to enable Government to bring it into force in such areas as it thinks fit.

Smallholders Relief.—Act No. VIII extends the life of the Act of 1938 by one more year up to March 31, 1942. As Government decided not to bring the

Bombay Tenancy Act and the Bombay Agricultural Debtors Relief Act into force in the whole of the Province at once, it was found necessary to extend the life of this Act by one more year.

1941

DURING the period between April 1, 1941, and March 31, 1942, the following Acts were made by the Governor of Bombay in exercise of the powers of the Bombay Legislature assumed by him under the Proclamation dated November 4, 1939, issued under s. 93 of the Government of India Act, 1935, and, having received the assent of the Governor or the Governor-General, as the case required, became law. The main purposes of each of the Acts are briefly stated below:—

Advertisements.—Bombay Act No. IX (to amend the Bombay Abkari Act, 1878) was enacted to repeal ss. 42 E and 43 A of the Act of 1878 containing provisions for prohibition of advertisement of intoxicants. In the opinion of Government, the prohibition of such advertisement, which places an unnecessary handicap on the newspapers published in this Province, was no longer justified.

Industrial Disputes.—Act No. X amends the Bombay Industrial Disputes Act, 1938, and empowers Government to refer any industrial dispute to arbitration of the Industrial Court if satisfied that (1) a serious outbreak of disorder or a breach of the public peace is likely to occur ; (2) serious or prolonged hardship to a large section of the community is likely to be caused by reason of the continuance of the dispute ; or (3) the industry concerned is likely to be seriously affected and the prospects and scope for employment curtailed as a result of the continuance of the dispute, and to make a strike or lock-out illegal before the completion of such arbitration proceedings or the coming into operation of the award, whichever is later.

Whipping.—Bombay Act No. XI, amending the law relating to the punishment of whipping, provides for it to be ordered for the commission or abetment of any offence under ss. 147, 148, 324, 325, 326, 435 or 436 of the Indian Penal Code, in addition to the punishment provided for such offence under the said Code. It also repeals Bombay Act No. X of 1933.

Criminal Procedure.—Act No. XII amends the Criminal Procedure Code in its application to the Province of Bombay, to make it clear that the provisions of s. 162 of the Code do not affect the provisions of s. 27 of the Indian Evidence Act, 1872.

Police.—No. XIII was enacted to give power to the Commissioner of Police, Bombay and District Magistrates to authorize the police to erect barriers on any street for the purpose of stopping temporarily vehicles driven on such street in order to satisfy themselves that the provisions of any law have not been contravened in respect of such vehicle or by the driver or person in charge of it.

Insect Pests.—No. XIV was enacted to provide for the prevention of the introduction, spread or reappearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay. It empowers Government to compel all the landowners concerned simultaneously to bring into operation the measures against pests, etc.

Prohibition.—No. XV was enacted in order to preserve the arrangements of Government control in excise administration both in prohibition and non-prohibition areas, which were impugned by the High Court in what is known as the Todiwalla case.

The Act empowers Government to issue orders in regard to all matters pertaining to the granting of licences and to revise the orders passed by Abkari officers. It also provides that all Abkari officers shall exercise their powers in accordance with such orders as Government may from time to time issue.

Industrial Disputes.—No. XVI was enacted to make it unnecessary on the part of employers to give notice of any change in the terms of employment when the effecting of such change has become lawful by reason of a notification issued under s. 8 of the Factories Act, 1934.

Grain.—No. XVII was enacted to penalize even attempts to remove fodder or grain from a notified local area without obtaining the necessary permission for its removal.

1942

Crown Property.—No. I was enacted to safeguard Government's interest in premises held on lease or other tenure immediately from the Crown. The amendment confines the first charge of the municipality for arrears of property taxes to the interest in the building or land of the person liable to pay the municipal taxes and to the goods and chattels found within or upon such premises and belonging to such person. If the arrears of property taxes are not discharged, the Corporation can now sell only the interest of the lessee in the land but not the reversionary interest of Government also therein.

Local Authorities.—No. II of 1942 was enacted to enable Government to make advance payments to the Local Boards by way of loans. In particularly bad years of scarcity, when the collection of ordinary land revenue is suspended and when it is considered that the collection of even the local fund cess would be a hardship on agriculturists, the Local Boards are not able, due to the lack of ready funds, to adopt relief measures. The amendment made by this Act would enable Government to pay the Local Boards by way of loan the amount of the local fund cess that would have been ordinarily due for collection and to recoup it when the uncollected or suspended cess is collected in subsequent years.

Police.—Act No. III of 1942 was enacted to remove a loophole in the Act of 1902. The High Court had held that a small knife carried by a person could not be regarded as an " offensive weapon " within the meaning of s. 23 (2) (*a*). There was thus no effective means to prevent the carrying of knives in times of disturbances. It is essential that when public peace and public safety are to be preserved the Commissioner of Police should have the power to prohibit the carrying of knives, sticks and lathis also. The words " knives, sticks and lathis " have therefore been included in s. 23 (2) (*a*) and s. 113.

Town Planning.—It was found that under the Bombay Town Planning Act, 1915, as it stood, the Administrator of a superseded municipality could not carry out the Town Planning Schemes under the Act. The Act has therefore been suitably amended by No. IV of 1942 to confer the necessary powers on the Administrator to undertake Town Planning Schemes during the period of supersession or dissolution of a municipality.

Smallholders.—Act No. V of 1942 extends the life of the Act of 1938 by one more year up to March 31, 1943. The Bombay Agricultural Debtors Relief Act, 1939, and the Bombay Tenancy Act, 1939, having been applied only to a few talukas and petas, the Act of 1938 is at present in force in much the greater part of the Province. Government, after giving careful consideration, came to the conclusion that in the prevailing circumstances the balance of advantage lay strongly in favour of keeping the Act of 1938 alive for another year.

Finance.—Act No. VI of 1942 was enacted to provide for the extension of the life of the Act of 1932 by one more year, subject to certain further amendments.

The Stamp Act provides for a duty being levied only on a clearance list submitted by a member of a recognized Stock Exchange. Under the rules of a recognized Stock Exchange a member who is declared a defaulter ceases to be a member and it is not legally possible for the Stock Exchange to recover stamp duty on the transactions entered into by a defaulter. The first amendment effected is intended to remove this difficulty.

The next amendment effected is regarding the rates of the Urban Immovable Property Tax levied under Part VI of the Act. The rates were reduced with effect from April 1, 1942, from 8 per cent. to $7\frac{2}{3}$ per cent. and from 4 per cent. to $3\frac{5}{6}$ per cent. An amendment has also been made in the Act providing exemption from the levy of the tax for open lands within the limits of the Bombay Suburban and Thana Districts.

Rent Restriction.—No. VII of 1942 extends the life of the Act of 1939 up to March 31, 1943. The Act of 1939 was enacted to restrict the increase of rent of certain premises in consequence of the levy of the Urban Immovable Property Tax. As the levy of the tax was continued in the next financial year, the life of this Act also was extended by a further period of one year.

4. BENGAL

In the year 1940 twenty-one Acts were passed, together with three Regulations made by the Governor under s. 92 (2) of the Government of India Act, 1935, and three Ordinances under s. 88 (1) of that Act.

Jute.—Act V is a comprehensive measure providing for the regulation of the growing of jute, and in order to carry that into effect the preparation of a record of the lands on which jute was grown in any year. It was amended in some particulars by Act XIV. Two of the Ordinances made by the Governor, as a matter of urgency, deal also with the subject.

Protection of Workmen.—By Act IV amending the Bengal Workmen's Protection Act, 1934, whoever loiters at or near any place where a workman works or receives his wages in a manner indicating that he is doing so with a view to recover any debt from such workman renders himself liable to six months' imprisonment and/or a fine of two hundred and fifty rupees.

Agricultural Debtors.—Act VIII makes a number of amendments of the Agricultural Debtors Act of 1935 with a view to the further protection of the debtor.

Agricultural Tenants.—Act IX provides for the temporary stay of certain suits and proceedings against certain non-agricultural tenants who are defined to mean a tenant who is liable to pay rent for non-agricultural land which such tenant is entitled to use for any homestead or residential purpose or for the conduct of any commercial or industrial enterprise, but does not include a tenant holding non-agricultural land with any structure erected or owned by the person from whom he holds it or his predecessor in interest of any such person.

Moneylending.—Act X makes further provision for the control of moneylenders and embodies particulars of their registration and housing, the regulation of their accounts, the assignment of loans and the amount of interest and other charges.

Shops.—Act XVI regulates the holidays, payment of wages, hours of work and leave of persons employed in shops, commercial establishments and places of public entertainment.

Census.—Act XX authorizes local authorities to make a contribution upon a prescribed basis of population to the cost of the Census in 1941.

Co-operative Societies.—No. XXI repeals nearly the whole of the Co-operative Societies Act of 1922 and now contains the main substantive law for the promotion and working of co-operative societies for the encouragement of thrift, self-help and mutual aid among persons of moderate means with needs and interests in common to the end that better conditions of living and better methods of production and business may result.

1941

Eleven Ordinances and three Regulations were passed in 1941.

Riots.—As the Bengal Legislature was not in session the Governor was satisfied that it was urgently necessary in the public interest to make special provision for dealing with extensive disturbances of the public peace and authorized that areas might be described as "turbulent areas," upon the inhabitants of which district magistrates, after inquiries, might impose a fine according to their means.

Finance.—Act V levied a tax on retail sales of motor spirits. Act VI imposed a general tax on the sale of goods. Act XI provided for the levy of a tax on raw jute purchased by the mills and by shippers of jute.

5. UNITED PROVINCES

THIRTEEN Acts were passed in 1940 under the powers assumed by the Governor under Proclamation dated November 3, 1939.

Payment of Members.—Act V provides for the suspension of payment of salaries to officers and members of the Provincial Legislature.

Power Alcohol.—Act VIII provides for the fostering, development and regulation of the industry of power alcohol.

Agricultural Debtors.—Act XIII provides for the relief to agriculturists and workmen. The object of Act XIV is to prevent excessive borrowing by agriculturists.

Prohibition.—The Excise Act of 1910 is amended by Act IV so as to make further provision for enforcing the policy of prohibition.

1941

ELEVEN Ordinances and one Regulation were passed in 1941.

Air Raids.—The object of Act XIII is to make better provision for the protection of the general public against air attack through the creation and maintenance of water supply and fire services.

6. PUNJAB

[*Contributed by* A. N. BHANDARI, ESQ., I.C.S.]

Excise.—Act I amends the Act of 1914 so as to provide for securing the return to distilleries of existing stocks of used excise bottles (bottles permitted for the bottling of liquor or beer by rules made under the Act). Enacted in order to overcome the difficulty presented by the shortage of bottles caused by war conditions.

Motor Vehicles.—Act II amends the Act of 1924 so as to provide for the continuance of the system whereby an owner of a motor vehicle is required to display a coupon in token of the fact that he has paid the tax. (This was previously required by rule under the Indian Motor Vehicles Act, 1914, but it is stated that no provision for such a rule exists in the new Act of 1939.) Abolishes local taxes on motor vehicles hitherto leviable by urban local bodies.

State Aid to Industries.—Act III amends the Act of 1935 so as to promote the development of cottage and village industries through State aid ; provides for State aid for the conduct of research and the purchase of machinery in the case of industries other than cottage industries.

Legislative Assembly.—Act IV, which remains in force until the end of the war and for such period not exceeding one year thereafter as may be notified by Government, provides that a person shall not be disqualified for being a member of the Legislative Assembly by reason only of holding an office of profit under the Crown as a member of His Majesty's Forces or as a holder of an office under the Defence Department of the Central Government.

Pure Food.—Act V amends the Act of 1929 so as to prohibit the sale of artificial ghee, *i.e.*, any article of food which resembles ghee but which is not derived solely from milk fats, unless it is given a distinctive colouring.

Increment Value Tax.—Act VI provides for the levy of a tax, at a rate not exceeding thirty rupees per acre, on lands the value of which has risen or is likely to rise as a result of the Thal Irrigation project.

Factories.—Act VII amends the Act of 1934 in its application to the Punjab so as to require the registration of factories carrying on certain important industries, and the permission of the Government for the establishment or extension of factories for the purpose of carrying on those industries.

Alienation of Land.—Act VIII amends the Act of 1900 so as *inter alia* to make it clear that the principle of s. 21 of the Act, barring the jurisdiction of civil courts in matters which a Revenue officer is empowered to dispose of, applies to the provisions of s. 13 A (directed against *benami* transactions intended to evade the provisions of the Act), and to provide that every lease, farm or mortgage made under s. 16 (2) of the Act is determinable at any time by the owner of the land tendering an amount which bears to the amount of consideration for the transfer the same proportion as the unexpired period bears to the total period of the transfer.

Consolidation of Holdings.—Act IX amends the Act of 1936 so as to provide for a more convenient procedure for the preparation of a new record of rights on the confirmation of a scheme of consolidation.

Trade Employees.—Act X applied in the first instance only to municipal and cantonment areas in a few large towns. Provides for the regulation of working hours for shop assistants and commercial employees, and of their holidays, wages and terms of service.

Inter alia prohibits the employment of persons under the age of 14 years in shops or commercial establishments unless they are certified by a first-class magistrate to be *bona-fide* apprentices ; restricts hours of employment and fixes the earliest opening and latest closing hours for shops and commercial establishments ; makes provision for holidays with pay, wage periods, maximum amount of fines leviable by employers on employees, and notice of dismissal to be given to and by employees.

Code of Criminal Procedure.—Act XI amends the Code of Criminal Procedure, 1898, in its application to the Punjab, so as to make it clear that the provisions of s. 162 of the Code dealing with the use in evidence of statements made to the police do not affect the provisions of s. 27 of the Indian Evidence Act, 1872. The amendment restores to the law the meaning which had been attached to it before a recent ruling of the Lahore High Court to the effect that s. 162 of the Code by implication repealed s. 27 of the Indian Evidence Act, and therefore made inadmissible even information received from an accused person in the custody of the police which leads to the discovery of facts.

Relief of Indebtedness.—Act XII amends the Act of 1934, *inter alia*—(i) Prescribes that interest shall be deemed excessive if it exceeds 7½ per cent. simple interest or is more than 2 per cent. over the bank rate, whichever is greater, at the time of taking the loan, in the case of secured loans, or 12½ per cent. simple interest in the case of unsecured loans ; (ii) includes within the scope of the Act debts to banks when effected in order to avoid the operation of the Act ; (iii) applies the Act to all persons whose total assets do not exceed Rs. 5,000 ; (iv) amplifies the power of Debt Conciliation Boards to deal with creditors who fail to submit statements of debts ; (v) empowers the Boards to adjudicate on the genuineness of enforceability of debts ; and gives a power of appeal when the sum involved exceeds Rs. 2,000 ; (vi) prohibits arrest and imprisonment of debtors in execution of decrees for money ; (vii) restricts creditors' power of attachment of property ; (viii) strengthens the clause penalizing false claims for principal sums, in excess of what was really lent, and adds a penalty for the use of documents containing false entries.

Criminal Law.—Act XIII extends the Act of 1935, which was due to expire on November 30, 1940, for a further five years.

District Board of Gujrat Tax Validation.—Act XIV validates the assessment and collection of a tax imposed by the District Board in June, 1930.

Municipalities.—Act XV amends the Act of 1911 so as to exclude the crediting of certain fines to the municipal funds ; and to provide that the penal offence of sounding instruments in contravention of the orders of a municipal committee extends to the use of gramophones, wireless receivers and the like.

Legislative Assembly.—Act XVI amends the Act of 1937 so as to extend the list of offices the holding of which shall not disqualify a person from membership of the Legislative Assembly.

Urban Immovable Property Tax.—Act XVII comes into force in such areas and on such dates as may be determined by notification ; levies an annual tax, to be paid by the owner, on buildings and lands in such areas administered by municipal corporations, municipal committees, cantonment boards, small town committees and notified area committees, as are shown in the Schedule to the Act ; the tax is not to exceed 20 per cent. of the annual value of the buildings and lands, but a surcharge not exceeding one-half of the tax may be levied during the war and for one year after its termination ; exempts from the tax buildings and lands of the Central and Provincial Governments and of local authorities and district boards ; buildings and lands the annual value of which does not exceed Rs. 300 in Lahore and Simla and Rs. 240 elsewhere ; and buildings and lands used for educational, religious, charitable and other specified purposes ; prescribes the method of ascertaining the annual value of buildings and lands ; sets up assessing authorities ; provides for the preparation of valuation lists of property every five years ; prescribes the procedure for collecting the tax and for recovering arrears of tax ; and empowers assessing authorities to obtain full information about taxable property. Jurisdiction of civil courts is excluded in matters which the Provincial Government or officers are empowered to dispose of, and courts shall not take cognizance of the manner in which such authorities exercise the powers vested in them.

Education.—Act XVIII provides for the compulsory attendance of children at primary schools. (i) Defines " school age " as between 6 and 12 for boys and 6 and 11 for girls ; (ii) provides that a local authority may pass a resolution, which must have a two-thirds majority of members present, making primary education compulsory within the whole or a specified part of the area under its jurisdiction for all boys or girls of school age, or for all boys and girls of school age who have attended a recognized school for a prescribed period. Such resolution, with any objections received within 30 days of its publication, is to be forwarded to the Provincial Government with a statement showing the accommodation, equipment and staff required, and the expenditure thereon which the local authority is prepared to supply ; (iii) empowers Government, whether or not it receives such a proposal from a local authority, to bring into force the provisions of the Act described in (iv) and/or (v) below ; particular classes or communities may be exempted from the provisions of the Act ; (iv) lays on a guardian the duty of sending to school a boy of school age who has not completed the primary course and who has no reasonable excuse for non-attendance ; the days and hours needed to constitute attendance are prescribed by the local authority ; " reasonable excuses " include the absence of any school within two miles of the boy's residence (or the existence only of a school in which any religious observance or instruction of a nature not approved by the guardian is compulsory) and the fact that the boy is over 11 when he first becomes compulsorily liable to attend school. Imposes on the local authority the duty of maintaining the necessary accommodation, equipment and staff, without charging fees on the compulsory scholars. Sets up " school attendance authorities." Renders a guardian who, after due warning by a school attendance authority, fails to send a boy to school, liable to a fine not exceeding Rs. 15 ; and an employer, who, after such a warning, continues to employ a boy during school hours, liable to a fine not exceeding Rs. 25. (v) The provisions for girls are the same except that " reasonable excuses " include the absence of any school exclusively for girls at the place where compulsion has been introduced (or the existence only of a school in which any religious observance or instruction of a nature not approved by the guardian is compulsory) and the fact that the girl is over 10 when she first becomes compulsorily liable to attend school ; (vi) repeals the Act of 1919 except in cantonment areas.

1941

Sikh Gurdwaras.—Act I amends the Act of 1925 so as to legalize the receipt by the Shiromani Gurdwara Parbandhak Committee of two-thirds of the income of the Sikh Gurdwaras Judicial Commission.

Fisheries.—Act II amends the Act of 1914 so as to extend the list of petty fishing offences which are compoundable.

Entertainment Duty.—Act III amends the Act of 1936 so as to withdraw the concession of issuing duty-free complimentary tickets, other than those issued to Press representatives, and so as to make offences under the Act compoundable.

Sales Tax.—Act IV levies a tax, payable in two six-monthly instalments, on every person who carries on the business of selling goods, at the rate of two annas per Rs. 100 of annual turnover if the latter is between Rs. 5,000 and Rs. 10,000, three annas per Rs. 100 if between Rs. 10,000 and Rs. 20,000 and four annas per Rs. 100 if over Rs. 20,000. Classes of goods absolutely exempt from the tax include electric energy, motor spirit, tobacco, alcoholic liquors and drugs ; classes conditionally exempt include bullion, cereals, cotton, hand-woven cloth, agricultural or horticultural produce sold by the grower, agricultural implements and newspapers ; and goods produced in the Province but despatched outside the Province. Makes provision for the submission of returns, the filing of appeals against assessment and the keeping of accounts, by assessees ; and for the recovery of the tax as arrears of land revenue.

Land Revenue.—Act V consolidates the law relating to grants and assignments of land revenue known as "jagirs" ; in particular, restricts the value of new jagirs to be created by the Provincial Government to Rs. 5,000 per annum ; provides that the amount continued to the second holder of a new jagir shall not exceed half the amount assigned to his predecessor and that the jagir shall be extinguished after the second holder's death ; and regulates the rule of descent in the family of a jagirdar.

Courts.—Act VI amends Act VI of 1918 so as to bring it into accord with s. 100, Civil Procedure Code, by allowing a second appeal to the High Court in cases where a question of the validity or existence of any custom or usage is involved without a certificate from the first appellate court that the question is sufficiently important to justify a second appeal.

Indecent Advertisement.—Act VII penalises the exhibition of indecent advertisements—which for the purpose of the Act include advertisements relating to venereal diseases and other complaints arising from or relating to sexual intercourse.

Property Registration.—Act VIII amends the (Central) Act XVI of 1908 in its application to the Punjab so as to enable the Provincial Government to require that in non-testamentary documents which are to be registered, houses in towns shall be described by reference to a Government map or survey.

Agricultural Produce.—Act IX amends Act V of 1939 by making provision for penalizing persons marketing agricultural produce who fail to apply for licences before September 1, 1941 ; modifies the constitution of the market committees so as to ensure that growers shall have 5 representatives in a committee of 9, and 9 in a committee of 16 ; vests the Provincial Government with emergency powers for carrying out the purposes of the Act in the event of the breakdown of the marketing committees ; and makes certain other minor amendments.

Rent Restriction.—Act X supplements the Punjab Urban Immovable Property Tax Act, XVII of 1940, and aims at preventing landlords from passing on the burden of that tax to their tenants. Comes into force in such urban areas and from such dates as may be notified ; restricts the raising of rent of any premises beyond the "standard rent," which generally means the rent payable on January 1, 1939 ; but a landlord may increase rent at a rate not exceeding 6 per cent. per annum on expenditure incurred on any improvement or structural alterations ; prohibits the charging of a fine or premium for the grant, renewal or continuance of a tenancy, and makes such payments by tenants after January 1, 1939, recoverable from the landlord. Prohibits the eviction without due notice to quit of a tenant who pays rent and performs the other conditions of his tenancy, except where the premises are genuinely required by the landlord. Provides for the recovery of rent paid in excess of the provisions of the Act. Empowers the court to fix the standard rent in certain cases, and to raise it by not more than 10 per cent. on account of increased amenities.

Electricity.—Act XI amends with effect from November 1, 1940, the Act of 1939 so as to curtail from two years to one year the period of notice of purchase by the Provincial Government required to be served on a licencee of an Electric Supply Undertaking under s. 7 (4) of the Indian Electricity Act, 1910.

Weights and Measures.—Act XII establishes standards of measures and regulates the use of weights and measures in the Province ; provides for the preparation of sets of standard weights and measures, for verifying weights and measures in actual use ; prohibits the use of weights and measures other than standard weights and measures for purposes other than the measurement of land ; provides for the verification and stamping of weights and measures by inspectors appointed to carry out the provisions of the Act ; and penalizes the use of false and unauthorized weights and measures, the giving of short weight and measure, the forging of weights and measures, etc.

The Colonization of Government Lands.—Act XIII amends the Act of 1912 so as to include the widow of a predeceased son and the widow of a predeceased grandson in the list of persons entitled to succeed to a tenancy on the death of an original grantee.

7. BIHAR

[*Contributed by* J. A. SAMUEL, ESQ., *Secretary to Government.*]

NINE Acts were passed during the year 1940, of which one, viz., the Court of Wards (Amendment) Act, 1939 (Bihar Act IV of 1940), was passed by the Bihar Legislature, while the rest were enacted by His Excellency the Governor of Bihar by virtue of the legislative powers assumed to himself by the Proclamation, dated November 3, 1939, issued by him under s. 93 of the Government of India Act, 1935, a copy of which is enclosed.

Agricultural Income-tax.—Act No. 1 amends the Bihar Agricultural Income-tax Act, 1938, in order to remove a practical difficulty that had arisen in the assessment of the tax.

Agricultural Tenancy.—Nos. 2 and 3 are intended to relieve the congestion of work caused by the presentation of a very large number of appeals to the Collector against orders reducing the rent of agricultural holdings, by providing for the appointment of Special Officers who can, in addition to the ordinary appellate authorities, hear such appeals.

Court of Wards.—Act No. 4 amends the Court of Wards Act, 1879, in order to remove certain defects which experience had brought to light and to confer on the Provincial Government and the Board of Revenue additional powers to undertake the management of property on behalf of the owner. In particular it permits the Board of Revenue to take charge of and to manage property held by trustees, and the property of an owner who is considered unfit to manage his own property owing to his extravagance or failure to pay his debts.

Salaries of Officers and Members of Legislature.—Act No. 5 repeals with effect from July 1, 1940, and for so long as the Proclamation under s. 93 of the Government of India Act, 1935, remains in force, Bihar Acts II of 1937 and VII of 1938, which fixed the rates of salaries and allowances payable to officers and members of the Provincial Legislature.

Motor Vehicles Taxation.—Act No. 6 makes certain amendments in the

Bihar and Orissa Motor Vehicles Taxation Act, 1930, which were rendered necessary by the enactment of the Motor Vehicles Act, 1939.

Refund of Cess.—The main object of Act No. 7 is to permit a person paying local cess to apply for a reduction of such cess if the rents payable to him by tenants of agricultural holdings, and which forms the basis of the amounts payable by him as local cess, have been reduced.

Excise.—Act No. 8 amends the Bihar and Orissa Excise Act, 1915, in order to empower the Provincial Government to prohibit the possession of intoxicants by *all* persons or any person or class of persons in the whole of the Province or in any specified area, and was passed to remove the difficulty caused by a recent judgment of the High Court which decided that the provision of the Bihar and Orissa Excise Act empowering the Provincial Government to prohibit the possession of intoxicants by any person or class of persons in a specified area did not confer power to issue an order prohibiting the possession of intoxicants by *all* persons in that area.

Sugar Factories Control.—The main object of No. 9 is to continue the operation of the Bihar Sugar Factories Control Act, 1937, for another two years and to confer additional powers relating to the fixing of the price of sugar and to regulate the marketing of sugar. It also increases from six to twelve pies the cess paid on sugar cane.

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THREE Acts were enacted during the year 1941. These Acts were enacted by His Excellency the Governor of Bihar by virtue of the legislative powers assumed to himself by the Proclamation, dated November 3, 1939, issued by him under s. 93 of the Government of India Act, 1935.

Sugar Factories.—The object of the amendment is to increase from eight annas to three rupees the fine which may be imposed on the occupier of a factory for sugar produced in contravention of a licence granted under s. 40 or in contravention of a direction issued under s. 11 A of the Bihar Sugar Factories Control Act, 1937.

Land Tenure.—The object of the Bihar Tenancy (Amendment) Act, 1941, is to extend to the aboriginal tribe in the District of Shahabad, known as the Kharwars, the protection already afforded to other aboriginal tribes, by c. VII A of the Bihar Tenancy Act, 1885, which imposes severe restrictions on the alienation of their lands by these tribes.

Refund of Cess.—An Act amending the Bihar Refund of Cess Act, 1940, in order to provide for the refund to a landlord of cess paid by him on the annual value of his lands. if such annual value has been reduced as a result of rent reduction operations under s. 112 A of the Bihar Tenancy Act, 1885, or under s. 35 A of the Chota Nagpur Tenancy Act, 1908.

Three Regulations were made by the Governor under s. 92 (2) of the Government of India Act, 1935, during the period under review.

The Chota Nagpur Division and the Santal Parganas District Validating Regulation, 1941, applies, with retrospective effect, the Indian Income-tax (Amendment) Act, 1939, with certain modifications, and the Income-tax Law Amendment Act, 1940, the Excess Profits Tax Act, 1940, and the Indian Finance Act, 1940, to the Santal Parganas and the Chota Nagpur Division.

The Santal Parganas Laws Regulation, 1941, applies the Indian Merchant Shipping Act, 1923, to the Santal Parganas.

The Santal Parganas (Second Laws) Regulation, 1941, applies the Indian Merchandise Marks Act, 1889, to the Santal Parganas.

8. CENTRAL PROVINCES AND BERAR

SEVENTEEN Acts were passed in 1940.

Education.—Act III for the establishment of Vidya Mandirs defined to be an educational constitution for the spread of literary education in a village or group of villages and authorizes the constitution of committees for their management.

Motor Taxation.—Act IV authorizes the levy of a tax on Motor Vehicles.

Payment of Members.—Act No. X suspends the payment of salaries in the same way as the United Provinces Act (*supra*).

Land Tenure.—Act XI is an extension and amending measure of the Central Provinces Tenure Act, 1920.

1941

NINETEEN Acts were passed in 1941.

Elections.—Act II provides for the postponement of general elections to local boards. It was amended by Act X.

Education.—Act XI amends Act III of 1940 by giving the managing Committee of Vidya Mandir power to take over the management of land.

Berar.—Act XV extends certain Acts of the Central Provinces to Berar.

9. ASSAM

[*Contributed by* N. L. HINDLEY, ESQ., *Secretary to the Government.*]

DURING the year 1940 there were only six Acts passed by the Assam Legislature. Of these two were in name and two others in substance merely amending Acts, and they require no special mention.

The remaining two Acts are as below:—

Finance.—No. 1, which imposes for the year 1940-41 the rates of taxation under certain sections of the Assam Agricultural Income-Tax Act, 1939 (IX of 1939), for the purpose of balancing the budget and producing extra funds for the development of the nation-building activities of the Government of Assam.

The purpose of the Assam Local Authorities Compensatory Grants (Charged) Act, 1940 (II of 1940), is explained in the Statement of Objects and Reasons, thus:—

Before April 1, 1937, certain revenues were credited *direct* to different local authorities and formed part of the income of those local authorities. By the Adaptation Order in Council all provisions in the law (as it stood on March 31, 1937) by which any receipts forming (in accordance with List II of the Seventh Schedule to the Government of India Act) part of Provincial revenues were credited direct to local bodies have been repealed, and from April 1, 1939, all such receipts are classed as revenues of the Province and have been accounted for in the Annual Financial Statement. Provision has been made under *voted* heads only in the budget for *compensatory grants* to the various local authorities for the loss of these direct credits. The principle of compensatory grants having been accepted, it is considered that it will be in the general interest to make the grants charged on the revenues of the Province under s. 78 (3) (*g*) of the Government of India Act, 1935.

[It is hoped to publish the review of 1941 in the next issue.]

10. NORTH-WEST FRONTIER PROVINCES

[*Contributed by* SARDAR BAHADUR S. RAJA R. SINGH, *Secretary to Government.*]

DURING the period under review the Assembly discussed fifteen Bills, out of which the following eleven were passed:—

Agriculturists Debtors' Relief.—No. 1 was introduced to rectify a clerical mistake in Explanation II to clause (i) of s. 2 of the N.W.F.P. Agriculturists Debtors' Relief Act, 1938, by substituting the figure 250 for 500.

Courts.—No. 2 was introduced by the Government to enable the Judicial Commissioner to regulate the distribution of work among Senior Sub-Judges. It enables him now to enhance the appellate jurisdiction of the Courts of Senior Sub-Judges.

Entertainment Duty.—No. 3 was a Government measure and gives power to the Provincial Government to vary the duty by means of notification without actually amending the principal Act which prescribes the rates of the tax.

Goondas.—No. 4 was introduced by the Government and excited much interest and controversy both inside and outside the Assembly. The Act furnishes means of punishing undesirable persons who are a danger to the Province summarily, and amongst other remedies provides for their expulsion from the Province if it is considered necessary for preventing communal and other disturbances or is otherwise expedient in the interest of public peace. The Bill was not assented to by His Excellency the Governor.

Motor Vehicles Taxation.—No. 5 reduces the rates of taxation in the case of lorry drivers and increases it in the case of private cars.

Muslim Waqf.—The object of No. 6 was to remove certain technical difficulties from the provisions of the original Muslim Waqf Act.

Primary Education.—No. 7 aimed at correcting certain technical mistakes which had inadvertently crept into the N.W.F.P. Primary Education Act, 1938.

Holy Quoran.—No. 8, which is now law, renders the publishing, printing and sale of the Holy Quoran by non-Muslims an offence.

Table Waters.—No. 9 imposes a tax on table waters in order to increase the revenues of the Province.

Punjab Municipalities.—By means of No. 10, clause (*b*) of s. 51 of the Punjab Municipal Act was repealed, the effect of which was that all balances outstanding to the credit of the Municipal Fund at the commencement of the Act were taken out of the Municipal Fund.

Tenancy.—No. 11 was introduced by a private member. It extends the application of personal law to the occupancy rights in land and made these rights heritable by other legal heirs in the absence of the male lineal descendants. Before the passing of the Bill the occupancy rights in land extinguished in the absence of such descendants.

[It is hoped to publish the review of 1941 in the next issue.]

11. ORISSA

[*Contributed by* W. W. DALZIEL, ESQ., *Secretary to the Law, Commerce and Labour Dept.*]

DURING the year 1940 seven Acts were enacted by the Governor in exercise of the legislative powers assumed to himself, by Proclamation, under s. 93 of the Government of India Act, 1935.

Land Tenure.—Act I provides for temporary protection of the occupancy rights of ryots in whole Inam villages and directs stay of proceedings in ejectment of such tenants up to March 31, 1941, pending enactment of a law on the subject after careful consideration.

Act IV provides that when a survey under the Madras Survey and Boundaries Act, 1923, has been done in respect of a village or an area comprised thereunder, certified copies of the records of such a survey made under the said Act and the rules thereunder shall be furnished to the Karnam of such village and that they shall be available to the ryots of such village, providing at the same time that in case there is no Karnam in such village or area, the aforesaid certified copies shall be made available for inspection by ryots of such village or area in such manner as may be directed by a general or special order of the Revenue Commissioner. It further provides that when the final record of rights has been prepared in respect of a village or an area comprised thereunder, and there is no Karnam in such village or area, certified copies of the final record of rights and the amendments made thereto shall be made available to ryots thereof for inspection in such manner as may be directed by a general or special order of the Revenue Commissioner.

Motor Vehicles.—Act II removes the repugnancy of some of the provisions of the principal Act (The B. and O. Motor Vehicles Taxation Act, 1930) with the later Act of the Indian Legislative, viz., the Motor Vehicles Act, 1939.

Act III similarly amends certain provisions of the principal Act (the Madras Motor Vehicles Taxation Act, 1931) for avoiding repugnancy with the Motor Vehicles Act, 1939.

Members' Salaries.—Act V provides, as the title signifies, that the Orissa Legislative Assembly Speaker's and Deputy Speaker's Salaries Act, 1937, and the Orissa Legislative Assembly Members' Salaries and Allowances Act, 1938, shall be repealed temporarily.

Bicycle Tax.—Act VI confers power on the municipalities in North Orissa to impose a tax on bicycles.

Legislative Assembly.—Act VII removes for the duration of the war the disqualification of a member of the Orissa Legislative Assembly in case he becomes a member of His Majesty's forces or holds office under the Defence Department.

Regulations.—In the year 1940 four Orissa Regulations were made under s. 92 (2) of the Government of India Act, 1935.

Regulation No. I simply amends s. 32 of the principal Act (The Central Provinces Land Revenue Act, 1881) and enables the Provincial Government to exercise the powers of appointment of a Settlement Commissioner and delegation of powers to the latter without the previous sanction of the Governor-General.

Regulation No. II (the Angul Laws [Amendment] Regulation, 1940) provides for imposition of a cess called the Primary Education cess, and for formation of a Primary Education Fund to be administered by a committee of seven members. It defines the powers and responsibilities of the said committee and the objects to which the said Fund shall be applicable. It further provides that realisation of arrears of such cess shall be made as a public demand.

Regulation No. III only incorporates or includes the Factories Act, 1934, in the schedule to the principal Regulation, the Angul Laws Regulation, 1936.

Regulation No. IV similarly includes the Factories Act, 1934, in the schedule to the principal Regulation, the Khondmals Laws Regulation, 1936.

[It is hoped to publish the review of 1941 in the next issue.]

12. SIND

[*Contributed by* TIKAMDAS D. MOTWANI, ESQ., *Deputy Secretary to the Government.*]

THE Sind Legislative Assembly held three sittings—one in January, second in March and the third in November, 1940. Twenty-seven Acts dealing with the following subjects were passed during the year:—

Intoxicating Liquor.—Act IV restricts consumption of intoxicants in public places and prohibits the consumption of intoxicants by certain classes of persons.

Agricultural Debtors.—Act VIII provides for the relief of indebted agriculturists in the Province of Sind.

Agricultural Produce.—Act XI provides for the better regulation of the purchase and sale of agricultural produce and the establishment of markets for agricultural produce in the Province. It extends to the whole of the Province of Sind except to the City of Karachi as defined in the City of Karachi Municipal Act, and municipal boroughs of Sukkur except upon a resolution of the Sind Legislative Assembly recommending such application.

Koran.—Act XII prohibits the printing, publishing or sale of the Holy Quoran by non-Muslims.

Shop Hours.—Act XVIII regulates the hours of work in shops, commercial establishments, restaurants, eating-houses, theatres and other establishments.

Gambling.—Act XIX amends s. 46 of the Bombay District Police Act, 1890, by inserting the words " or of more than two offences punishable under the

Bombay Prevention of Gambling Act, 1887, arising out of form of gambling commonly known as American futures.

Opium.—Act XX provides for the prohibition of opium-smoking.

Wild Birds.—Act XXI makes better provision for the protection and preservation of wild birds and wild animals in the Province.

Cattle Disease.—Act XXII provides for the prevention of the spread of contagious diseases among cattle in the Province.

Marriage.—Act I restricts payments made or agreed to be made on the occasion of betrothal or marriage.

Courts of Inquiry.—Act II provides for the constitution of Courts of Inquiry for holding public enquiries into certain matters.

Act XIII of 1940 extends the Sind Frontier Regulations, 1878 and 1892, to the District of Sukkur.

Public Health.—Act III amends the Karachi Vaccination Act, 1879, and the Bombay District Vaccination Act, 1892, in certain respects.

Education.—Act VII provides for the compulsory education of children of zamindars.

Medical Practitioners.—Act IX regulates and provides the qualifications and registration of practitioners of Indian system of medicine.

Local Government.—Act X provides that the elections under the Bombay Municipal Boroughs Act, 1925, shall be held on the basis of joint electorates.

[It is hoped to publish the review of 1941 in the next issue.]

13. COORG

[*Contributed by* J. W. PRITCHARD, ESQ., *Chief Commissioner.*]

Moneylenders.—The Coorg Economic Committee constituted by the Chief Commissioner recommended that on account of the economic depression, legislation should be undertaken for the relief of agricultural indebtedness and for the protection of debtors in general, and also that Government should consider the application of the rule of *Damdupat*. No. I was framed to give effect to the recommendations of the committee and is based on similar legislation in other parts of British India, in particular the Central Provinces Money-lenders Act, 1934, and s. 6 A of the Madras Debtors' Protection Act, 1934. The Act makes in general three provisions: (1) for the maintenance of regular accounts by money-lenders ; (2) for the strengthening the powers of courts acting under ss. 3 and 4 of the Usurious Loans Act, 1918 ; (3) for the prevention of compound interest and the charging of expenses by money-lenders.

The Act has been brought into force from January 1, 1940.

Tobacco.—No. 1 has been framed in order to augment Provincial revenues. It is based on Bombay Act II of 1933 and introduces a system by which licences must be taken for the sale of tobacco, whether wholesale, retail, or by a hawker or for carrying on business as a broker of tobacco. S. 6 of the Act lays down the maximum limit of fees that may be charged on the various sorts of licences, viz., wholesale, Rs. 50 ; retail, Rs. 15 ; hawker, Rs. 5 ; broker, Rs. 50. It is expected that an income of approximately Rs. 2,500 per annum will be realised by the introduction of this Act. The Act came into force from December 1, 1940. The term " tobacco " includes bidis, cigarettes and cigars, the leaf, stalks and stem of the tobacco plant and any preparation or mixture of tobacco, with the exception of recognised nicotine insecticides.

Debt Conciliation.—No. 2 was framed as a result of the recommendation made by the Coorg Economic Enquiry Committee in 1935 and is based on similar legislation in the Central Provinces and in Madras. The Act contemplates the constitution of Debt Conciliation Boards, the object of which is to reduce rural indebtedness and to scale down agricultural debt by means of conciliation between creditors and debtors. Though the establishment of a Land Mortgage Bank is necessary for the working of the Act in order to grant long-term loans to agricultural debtors, it was found impossible to set up such a bank. It is now intended that the administration of the grants under the Agriculturists' Loans Act for the relief of indebtedness should be co-ordinated with the work of the Conciliation Boards.

The only important difference between this Act and the British Indian legislation, upon which it is based, lies in the provision made to implement the notification of the Chief Commissioner, No. 18, dated March 5, 1914, by which lands, houses and other buildings and all immovable property are not liable to attachment or sale in execution of decrees of civil courts in Coorg, with the exception of such immovable property as has been mortgaged or specifically pledged as security for the debt which is the subject-matter of the decree sought to be executed. The Act has been brought into force from January 1, 1941, and for the present only one Board has been constituted for the whole of Coorg.

Co-operative Societies.—The combined post of Registrar of Co-operative Societies and the Deputy Director of Land Records and Agriculture, Coorg, was abolished from July 18, 1939, and the post of an Assistant Registrar of Co-operative Societies of a lower status was created. The amendment made by No. 3 in the Act was to make provision in the Coorg Co-operative Societies Act, 1936, for the redistribution of functions under the Act in accordance with the changes made in the appointments. The intention was to introduce a more comprehensive measure, allocating specific duties under the Act to the various officials concerned after orders were passed upon all the recommendations of the Financial Enquiry Officer.

Coffee Husk.—Adulteration of coffee with coffee husk assumed serious proportions of late, and the resultant decrease in coffee sales represents a heavy loss to planters. It was considered desirable to prohibit the sale and export of coffee husk by road or rail by suitable legislation. Such a step is calculated to help the coffee industry, which is already hard hit, and No. IV is designed to achieve this object.

Courts Regulation.—As a measure of retrenchment it was decided to abolish the Court of the Subordinate Judge, Coorg. Also, as the work of the Commissioner considerably increased as a result of the abolition of certain posts, it was decided to relieve him of his judicial work as a District and Sessions Judge and to appoint a separate District and Sessions Judge for Coorg. The amendments made in No. V to the Coorg Courts Regulation, 1901, give effect to the above proposals and also remove the names of certain courts which no longer exist. This Act came into force from July 1, 1940.

Transfer of Functions.—In order to effect retrenchment in expenditure in Coorg, the Secretary of State for India ordered that the Resident in Mysore be divested of his powers of Chief Commissioner of Coorg and that the status of the Commissioner of Coorg be raised to that of Chief Commissioner. It was thus necessary to divide the functions of the Commissioner of Coorg between the Chief Commissioner and Assistant Commissioner. To give effect to these administrative changes the various enactments in force in Coorg had to be amended, and No. VI was framed to provide for such amendments. This Act came into force from July 1, 1940.

Municipal Regulation.—There was no provision in the Coorg Municipal Regulation, 1907 (II of 1907), to compel individuals concerned in a transfer of immovable property situated within municipal limits to notify the Municipal Committee of the transfer. The Municipal Committee was thus at a disadvantage, as its records of holdings was not in accordance with the true state of affairs. No. VII introduces a new s. 39 A to the Municipal Regulation of 1907, which will remedy the disadvantage and is based on s. 106 of the Madras City Municipal Act, 1919 (IV of 1919).

Pure Food.—The necessity for legislation to ensure the purity of food and drugs sold to the public has been recognized throughout India. No. VIII is based on the Madras Prevention of Adulteration Act, 118, and on a few sections of the Madras Public Health Act, 1939. The Act provides for the appointment of a Public Analyst and a Government Analyst for purposes of analysing samples of food sent to them and giving certificates specifying the results of such analysis. The Act will be applied to particular local areas by notification of the Chief Commissioner when administrative arrangements have been made in each area for carrying out the provisions of the Act.

Sales of Motor Spirit Taxation.—No. IX is framed to augment the Provincial revenues. It provides for the levy on all retail sales of motor spirit effected after the commencement of this Act, a tax at the rate of one anna per gallon, and such tax is payable by the person effecting the sale. The Chief Commissioner has got power to vary the rate of tax from time to time by notification. It is estimated that an income of approximately Rs. 8,500 per annum may be realised by the imposition of this tax. The Act is based on the Madras Sales of Motor Spirit Taxation Act, 1939 (VI of 1939). It came into force from November 1, 1940.

1941

Co-operative Societies.—Consequent on the abolition of the post of the Deputy Director of Land Records and Agriculture who was also the Registrar of Co-operative Societies, the Assistant Commissioner was appointed as the Registrar of Co-operative Societies as a temporary measure. With effect from September 5, 1939, the post of Assistant Registrar of Co-operative Societies was created as per the recommendations of the Financial Enquiry Officer, and most of the powers of the Registrar were conferred on the Assistant Registrar by a notification under s. 3 of the Coorg Co-operative Societies Act, 1936, retaining some of the important powers with the Assistant Commissioner in his capacity as Registrar. It was subsequently found desirable that the person appointed as Registrar under the Act, whatever his pay and status may be, should exercise the powers conferred and perform the duties imposed by the Act on the Registrar. It was therefore proposed to designate the Assistant Registrar as Registrar and transfer some of the very important functions under the Act to the Assistant Commissioner, as it was considered necessary that the Assistant Commissioner should have some administrative control over the Co-operative Department. This had to be done by making specific amendments in the Act by the substitution of the words " Assistant Commissioner " for " Registrar " in the relevant contexts. Act No. 1 is intended to give effect to these measures. It came into force from August 1, 1941.

District Fund.—The Coorg District Board, at its meeting held in January, 1939, approved the proposals of its Retrenchment Committee to levy a tax on houses situated in pettas where facilities of lighting, water, conservancy and medical aid are provided. Act No. II enables the Chief Commissioner to levy this tax at the request of the Board. The rules to be issued under these provisions are under the consideration of the Board and will be on the lines of the relevant provisions in the Madras Local Boards Act, 1920.

Act No. III is also the outcome of the proposals of the Retrenchment Committee appointed by the District Board to levy " Wheel Tax " at one rupee per annum on carts and cycles which are maintained in rural areas, and enables the Chief Commissioner to levy this tax at the request of the Board. Such tax is being levied in Municipalities, Notified Areas and Village Panchayats and it was considered but reasonable that carts and cycles kept in other areas also should pay this tax.

Rinderpest.—Rinderpest is responsible for heavy mortality of cattle in Coorg, and the only effective way of preventing the spread of the disease is to immunize the cattle in the affected areas by the serum-simultaneous method of inoculation, which gives the protected animals fairly long immunity from the disease. It is futile under the present conditions to expect owners of cattle infected with this disease to seek the only effective remedy of inoculation. It was threfore considered that the only way is to undertake legislation to make inoculation compulsory not only during actual outbreaks of disease, but also when outbreaks are imminent and there is danger of the disease spreading. No. IV is intended to achieve this object. The provisions of the Act will be carried out by the Veterinary Assistant Surgeons, who will be called as Inspectors for the purpose of this Act. They will have power to enter stables, cattle-sheds, etc., for inspecting animals suspected or believed to be infected with rinderpest. On the report of the Inspector, the Chief Commissioner may declare any area or place to be an infected area or place and notify the same in the *Gazette*. While that declaration remains in force, no animal, alive or dead, or things used in connection with the animal may be removed from the notified area or place without a licence granted by the Inspector. Suitable penalties have been prescribed for the infringement of the provisions of the Act.

14. BURMA

TWENTY-EIGHT Acts were passed in 1940.

Defence.—No. I provided special measures to ensure the public safety and defence of British Burma. It gave the Governor emergency powers and set up special tribunals to enforce them.

Census.—No. V gave authority to make a census.

Aliens.—No. VII places restrictions upon the movement of aliens, including their entry to and departure from the country.

Defence Forces.—The employment of members of any volunteer forces is protected by No. IX. By No. XII members of the legislature are not disqualified owing to absence with the Forces. Provisions for the discipline of the Burma Royal Naval Volunteer Reserve is made by No. XV.

Currency.—Indian one rupee notes were made legal tender by No. XVI.

National Registration.—The compulsory registration of European British subjects, defined to be " any subject of his Majesty of European descent in the male line born, naturalized or domiciled in the British Isles, or any British Dominion or Colony," is authorized by No. XVII. By No. XVIII they are liable to be called up for national service.

Education.—Facilities for the introduction of free compulsory primary education are introduced by Act XX.

Weavers' Loans.—By No. XXII the Governor may make rules regulating loans to be made to weavers for the purchase of weaving appliances and necessities and raw materials and for the provision of working capital.

Law Revision.—An important piece of revision of the laws is carried out by No. XXVII.

1941

Defence Force.—Act No. I provided for an increase of training in the Burma Auxiliary Force and the withholding of discharges as notified by the Governor to meet an emergency. No. II is a similar Act applicable to the Frontier Force. No. III provides for the discipline of the Burma Volunteer Air Force.

Land Purchase.—Act XVI embodies the measures to be taken by the Governor when it is considered necessary for the Governor to purchase land in any locality for the purpose of allotment in small holdings to agriculturists.

Wages.—No. XVI amends the Payment of Wages Act so as to allow deduction of wages in furtherance of any War Savings Scheme.

Agriculture Produce.—No. XVII facilitates the marketing of agricultural produce by means of Market Communities. It applies in the first instance to ground nuts and cotton, but may be extended to other commodities.

VIII. EASTERN COLONIES

1. CEYLON

THIRTY-THREE Ordinances were passed in 1940.

Lunacy.—No. 3 amends the Lunacy Ordinance so as provide for the continuation of an inquiry into the mental condition of a suspected person after remand and also for the maintenance of persons in custody out of their own money. No. 13 enables the Governor to delegate powers under the principal Ordinance to the Ministry of Health.

Civil Procedure.—The Civil Procedure Code is amended by No. 4 so as to secure more effective action against debtors.

Agricultural Produce.—Provision is made by No. 8 for the grading and marketing of agricultural produce, which includes all produce of agriculture or horticulture, all articles of food or drink wholly or partly manufactured or derived from any such produce and fleeces and skins of animals.

Antiquities.—Previous legislation dealing with the preservation of antiquities is repealed by No. 9, which now contains a more extended law on the subject.

Local Government.—No. 61 of 1939 dealing with the constitution of Urban Councils is amended by No. 14, and in particular a new section is added to require every Urban Council to appoint a fit and proper person to be Secretary. His powers and duties are to be defined and may include authority to act on behalf of the Chairman in certain eventualities.

Local authorities are authorized by No. 32 to make contributions out of their moneys to war funds and charities.

International Convention.—No. 16 gives effect to the International Convention at Geneva in 1934 relating to the employment of women at night in industrial undertakings. It was amended by No. 46 of 1941.

Shops Hours.—Various amendments are made by No. 18 in the Shop Regulation Ordinance No. 66 of 1938, including one requiring intervals to be allowed for meals.

Fisheries.—No. 24 amends and consolidates the law relating to fisheries and to the taking and protecting of fish in Ceylon waters, to provide for the registration of fishing boats and generally for the better regulation of the fishing industry.

Tea.—Various amendments are made by No. 26 in the law regulating the staple commodity of the island.

Passports.—Authority is given to the Governor by No. 33 to make a removal order applicable to any person convicted of any offence of having entered and remained in Ceylon contrary to the regulations under the Passport Ordinance.

1941

FIFTY-FIVE Ordinances were passed in 1941.

Companies.—Companies formed and registered in Ceylon are authorized by No. 3 to make contribution to war funds and war charities. No. 6 permits them to lend money to the Government without interest under the Free Loans (War Purposes) Ordinance No. 2 of 1941.

Salt.—The Salt Ordinance is extended by No. 4 to authorize the appointment of a Salt Commissioner.

Leprosy.—The prejudice against the word " asylum " finds expression in No. 9 authorising the substitution of " hospital " for leper " asylum."

Local Government.—The gradual evolution of local government is illustrated by No. 11, substituting " Divisional Revenue Officers " for various local titles.

Medicine.—A Board of Indigenous Medicine is established by No. 17 to administer the College and Hospital of Indigenous Medicine and the Pharmacy, Herbarium and Dispensary attached to them. It also makes regulations for the practitioners in that branch of medicine.

Savings Bank.—The law relating to Post Office Savings Banks amending No. 146 is contained in No. 18.

Currency.—An amendment to deal with the offence of counterfeiting currency notes or banknotes is made in the Code of No. 19. A consequent amendment is made in the Procedure Code by No. 20. A comprehensive measure dealing with the currency and the establishment of a Currency Security Fund is contained in No. 21.

Orphanage.—The registration and control of orphanages and other institutions for the care and maintenance of orphans and deserted children is the subject of No. 22.

Adoption.—Another measure for the welfare of children is No. 24, which provides for the registration as custodians of persons having the care of children of whom they are not the natural parents on the lines of English legislation.

Statute Law Revision.—An annual supplement to the Revised Edition of the Legislative Enactments is authorized by No. 26.

Wage Boards.—The payment of wages is regulated by No. 27, which sets up Wages Boards and District Wages Committees.

Agricultural Produce.—The sale of agricultural produce through agents is regulated by No. 28, which requires them to be licensed for the purpose. It was amended by No. 29.

War Service.—Provision is made by No. 35 for the reinstatement in Civil employment of members of volunteer forces called out for war service. No. 36 is a similar measure applicable to the members of the reserve of any of His Majesty's Forces. No. 53 includes war service for the purpose of pensions to teachers.

Excess Profits.—A duty on excess profits is imposed by No. 33.

Debts.—The object of No. 39 is the establishment of a Debt Conciliation Board with Branch Boards competent to deal with the equitable adjustment of liabilities. It was amended by No. 40.

Tea.—The Tea Control Ordinance of the previous year is extended by No. 42 to the registration of blenders.

Rice.—No. 52 makes a provision for the maintenance of reserve stocks of rice by dealers, estates, employers of labour and Government contractors.

2. HONG KONG

THIRTY-FOUR Ordinances were passed in 1940.

Dentists.—No. 1 provided for the registration of dentists.

Shop Hours.—No. 5 regulates the closing hours of retail shops on the lines of English legislation.

Air-Raid Protection.—A Corps of Air Raid Wardens is established by No. 6.

Administration of Estates.—The purpose of No. 7 is to enable the estates of citizens of Estonia, Finland, Greece, Hungary, Japan, Thailand, Turkey and Yugoslavia to be administered by Consular officers in accordance with International Conventions.

Trade Marks.—The Registrar of Trade Marks receives special powers by No. 8 so as to be able to meet any emergency arising as a result of war, especially as regards the suspension of rights of enemy subjects.

Telephone.—Amendments are made by No. 9 in the Telephone Ordinance, 1925, regulating the telephone service, especially with a view to increasing the payments made to the Government by the undertaking.

Taxation.—The imposition of war taxes is authorized by No. 13. They include a property tax, salaries tax, Corporation profits tax and details of the procedure to be followed in assessing and collecting them. No. 19 was afterwards passed to prevent the passing on of war property tax. The principal Ordinance was amended by No. 29.

Trade Boards.—The object of No. 15 is to provide machinery for fixing minimum wages, determining normal working hours and fixing overtime rates in trades where the wage standards are unreasonably low.

Advertisements.—By an amending of the Advertisements Regulation Ordinance 1912, No. 16 provides an appeal to the Governor in Council against the decision of any person entrusted with power under the Ordinance. On that appeal the Governor may state a case for the opinion of the Full Court upon any question of law.

Immigration.—No. 32 regulates the entry and departure of persons into and out of the Colony and prohibits the entry of undesirable immigrants.

1941

Twenty-one Ordinances were passed in 1941.

Entertainments.—By an amendment of the Public Entertainment Regulation Ordinance, 1919, No. 2 restricts the unauthorized sale of tickets either as regards the place or the amount of sale.

Air Raid Wardens.—The organization of the service of Air Raid Wardens was developed in No. 6, amending the Ordinance of 1940 (*supra*). The Ordinance was further amended by No. 18.

Currency.—No. 10 authorizes the issue of one-cent currency notes. No. 21 added to the authority to issue and re-issue legal tender subsidiary currency notes.

Taxation.—No. 13 amends and consolidates the War Revenue Ordinances passed in 1940.

Police.—The Governor was authorized by No. 19 to confer on certain police forces the status of militia.

3. STRAITS SETTLEMENTS

Sixty-seven Ordinances were passed in 1940.

Imports and Exports.—The importation and exportation of goods is controlled by No. 2 so as to facilitate the enforcement of the law relating to trading with the enemy.

Labour.—The Registration and control of trade unions is the object of No. 3. Industrial Courts and Courts of Inquiry are established by No. 4, with a view to the settlement of trade disputes.

Marriage.—The law relating to the solemnization and registration of monogamous marriages is now contained in No. 9. Any person who has contracted a valid marriage under any law, religion, custom or usage contracts a bigamous marriage by marrying another, under this Ordinance. The age of marriage is sixteen for males and fourteen for females. A caveat may be entered with the Registrar before the issue of a certificate for a marriage, but a frivolous objection may render the person entering the caveat liable for the costs of all proceedings and damages. The local authority may be satisfied by a statutory declaration or otherwise as to him seems proper that it is more convenient for the marriage to be solemnized in some place other than the office of the Registrar or between the hours of seven in the evening and six in the morning of the following day. No marriage under the Ordinance shall be valid, which if celebrated in England would be null and void on the ground of kindred or affinity, and the Registrar must explain to the partners what are the prohibited degrees of kindred and affinity and the penalties for offending against them. No. 10 is a complementary Ordinance dealing with the solemnization of Christian marriages by ministers of religion and the solemnization of such marriages.

Taxation.—No. 13 imposes taxes to meet war expenditure. It includes export, import and excise duties, increase of estate duty, stamp duties, and duties on betting and sweepstakes. It imposes a duty on the capital of limited liability companies and adds to the duties on private motor-cars. No. 14 imposes a duty in respect to admissions to entertainments.

Local Forces.—No. 25 makes provision for securing and controlling the enlistment of male British subjects for service in defence of the Colony. No. 26 covers their training and the terms and conditions of enrolment.

Business Names.—No. 31 provides for the registration of firms and persons carrying on business under business names on the lines of English legislation.

Finance.—The Governor is authorized by No. 33 to borrow money for the purpose of making a gift to His Majesty's Government in the United Kingdom for the prosecution of the war. With that object the Ordinance authorizes the issue of War Savings Certificates. Contributions may similarly be made by authority of No. 36 by Municipal Funds, companies and registered societies.

Land.—No. 47 consolidates and amends the law relating to the collection of the land revenue of the Crown.

Companies.—Another amending and consolidating measure is No. 49, dealing with companies.

Aliens.—No. 67 makes provision for the registration of aliens.

1941

Taxation.—No. 3 makes considerable amendments in the War Tax Ordinance of the previous year, especially as regards procedure relating to assessment and appeal. Accountants as well as advocates and solicitors are given right of audience before the Board of Commissioners appointed to hear appeals.

Commissions of Inquiry.—No. 5 repeals and re-enacts with amendments c. 9 of the Revised Edition of the Laws dealing with the appointment of commissions to inquire into the conduct of any officer or officers in the public service of the Colony, the conduct or management of any department of the public service or any public or local institution.

Penal Code.—A definition of criminal conspiracy is added by No. 12 to the Penal Code with the punishment for the offence.

Wild Animals and Birds.—By an amendment of the Wild Animals and Birds Ordinance No. 14 prohibits the importation into the Colony except as food in cold storage of any wild animal or bird.

Road Traffic.—No. 17 is a comprehensive measure repealing three whole Ordinances and re-enacting them with amendments. It contains the law regulating the traffic on roads and motor vehicles, provides for third party insurance and co-ordinates and controls the means of transport.

War Risks Insurance.—Provision is made in No. 19 for the insurance of goods against war risks. This was amended by No. 34.

Labour.—The employment of children under 16 in electrical undertakings is forbidden by No. 21.

Architects.—The registration of architects by a Board of Architects constituted for the purpose is authorized by No. 23, which also contains the conditions of admission to the profession.

Divorce.—An addition to the Divorce Ordinance in No. 25 places a restriction on petitions for divorce during the first years of marriage. It also allows a " presumption of death in order to secure a decree nisi " of dissolution of marriage.

Police.—The law relating to the Police Force is amended and consolidated in No. 19.

War Service.—By No. 42 war service counts for pensions.

Advertisements.—The suppression of indecent advertisements is the purpose of No. 43, which also forbids advertisements relating to the treatment of venereal disease.

War Injuries.—Provision is made by No. 50 for compensation to members of civil defence organizations for injuries.

4. ADEN

FORTY-FOUR Ordinances, mainly of a minor amending character, received assent in 1940.

Marriages.—No. 5 is a Special Marriage Ordinance making provision for marriages between persons neither of whom professes the Christian or the Jewish or the Hindu or the Mahomedan or the Parsi or the Buddhist or the Sikh or the Jaina religion or between persons each of whom professes one or other of the following religions, *i.e.*, the Hindu, Buddhist, Sikh or Jaina religion. No. 6 deals with Christian marriages.

Trade Marks.—No. 7 provides for the registration in the colony of trade marks registered in the United Kingdom.

Extradition.—In order to facilitate the administration of the Extradition Acts, No. 8 gives to the Chief Magistrate the same powers in relation to the surrender of fugitive criminals as are vested in Police Magistrates and Justices of the Peace in the United Kingdom.

Censorship.—The Governor has power by No. 9 to require any persons in control of a telegraph cable or wire or wireless telegraphy to produce any telegram or any particular class of telegrams.

Patents.—No. 11 is in the usual terms for the protection of patents especially having regard to trading with the enemy.

Labour Corps.—The Governor is authorized by No. 16 to raise and maintain a Labour Corps, and provision is made for its discipline and control.

Wages.—The object of No. 17 is to enforce a minimum wage, and in doing so the Payment of Wages Act IV of 1936 is repealed.

Taxation.—A tax on motor spirit is imposed by No. 19. Tobacco, including snuff and biris, is taxed by No. 40. It was amended to correct errors by No. 44.

Antiquities.—Antiquities are protected by No. 21 forbidding their exportation.

Danish Seamen.—A Board is constituted by No. 24 to determine whether Danish seamen (including officers) shall be regarded as enemies, unwilling to serve under the British flag or suitable for service in ships used in the Allied interests.

Currency.—The Coinage and Currency are regulated by No. 28 in harmony with the Indian Coinage Acts.

Infanticide.—No. 34 deals with the offence of infanticide on the lines of English legislation.

Pensions.—The usual provisions for the protection of the pension rights of public servants are contained in No. 38.

1941

SIXTY-SIX Ordinances were passed in 1941.

Statute Law Revisions.—When clerical or typographical errors are made in the Ordinances the Governor, authorized by No. 1, may correct them by an Order published in the *Gazette*.

Armed Forces.—The local forces are enrolled by No. 3 in the Imperial Forces and placed under discipline similar to the Army Act.

Arbitration.—The procedure for submitting cases to arbitration is embodied in No. 4.

Boilers.—Provision is made by No. 6 for the registration and inspection of boilers.

Taxation.—An excess profits tax is authorized by No. 8.

Pensions.—Provision is made by No. 13 for the granting of pensions and gratuities in respect of service by subordinate officers in the Civil Service.

Public Holidays.—The "creation and observance" of public holidays is the purpose of No. 14. The head of any Government Department may call upon any public officer in such department to perform such of his duties on a public holiday as may be required of him. The dates are: New Year's Day (two days), Good Friday (two days), Easter Monday, Empire Day, the King's Birthday, Christmas Day and Boxing Day.

Bills of Exchange.—The law on bills of exchange is consolidated with amendments in No. 15.

Explosives.—The manufacture, possession, use, sale, transport and importation of explosives are covered by No. 19.

Shipping.—Native vessels are to be registered and licensed under the requirements of No. 21.

Married Women's Property.—No. 37 deals with insurances by a married woman or a husband for the benefit of his wife, and the wife's liability for post-nuptial debts and frees the husband from liability for ante-nuptial debts or liability for wife's breach of trust unless he acts or intermeddles in the trust or administration.

Inquest.—The Criminal Court Ordinance, 1937, is repealed by No. 38 so far as it is necessary to include all the provisions relating to the holding of inquests by Coroners in one Ordinance.

Public Health.—The Governor is given power by No. 39 to take special measures to deal with dangerous epidemic diseases.

Carriage by Sea.—The Indian Carriage of Goods by Sea Act, XXVI of 1925, is repealed by No. 41, which now contains the law on the subject.

Disease of Animals.—No. 42 sets up the usual machinery for dealing with disease of animals.

Land Acquisition.—A consolidating measure repealing four whole Ordinances and part of three more with amendments now contain the whole law upon the acquisition of land by the Government for public purposes.

Civil Service.—By No. 45 a Provident Fund is established for certain non-pensionable employees of the Government.

Gambling.—Bombay legislation dealing with gambling, with amendments, is consolidated in No. 46.

Telegraph.—Another consolidating measure is No. 53, which repeals the legislation in operation and with amendments makes comprehensive provision for the telegraph, including wireless, service.

Registration.—The law relating to the registration of births, deaths and marriages, which dates back to 1886, is repealed and brought up to date in No. 55.

Ejectment.—The Court is authorized by No. 61 to suspend ejectment where the circumstances would cause greater hardship by enacting the decree than by refusing to do so.

Cinematograph.—The Cinematograph has been regulated since 1918 and the legislation is repealed by No. 63, which with amendments now include the provisions for making a picture.

Civil Service.—Protection is provided by No. 64 for non-European public servants in respect of proceedings being taken to recover money lent upon any promise, express or implied.

No. 66 is a disciplinary measure to punish civil servants who do not carry out regulations, who disobey an officer in authority or are "grossly impertinent or disrespectful," who are intoxicated on duty, or in general act in a manner prejudicial to the work of the Department. The head of it, after due investigation, may enforce a fine not exceeding one quarter of a month's pay, which may be deducted from the offender's pay. There is a right of appeal, apparently to the Chief Secretary.

5. MAURITIUS

[*Contributed by* F. HERCHENRODER, ESQ., *Procureur and Advocate-General.*]

1939

SEVENTY-ONE Ordinances were passed by the Council of Government and assented to by the Governor between April 14th and December 8th, 1939. With the exception of the Trading with the Enemy Ordinance, 1939 (Ordinance No. 28), the Immigration (Control) Ordinance, 1939 (Ordinance No. 34), and the Import, Export and Customs Powers (Defence) Ordinance, 1939 (Ordinance No. 64)—certain provisions of which may also affect persons and objects outside the Colony—the majority of these Ordinances deal with matters of purely domestic concern, amongst which the following are of considerable importance:—

Law and Order.—No. 4 creates a Reserve of Officers of the Mauritius Territorial Force, thus providing the Local Defence Force with a reserve of trained officers whose services would be available should circumstances so require.

No. 28 deals with trading with the enemy on the usual lines.

No. 34 provides for the control of immigrants and the conditions under which they are to be admitted to residence in the Colony.

No. 37 provides for the control and supervision of the Life Assurance Companies carrying on business in the Colony.

No. 64 provides for the control of importation and exportation of goods into and from the Colony under war-time conditions.

No. 71 provides for the complete control of transport facilities throughout the Colony and the conditions under which public conveyance may be effected.

Finance.—No. 36 consolidates the law relating to Poll Tax.

No. 41 provides for various changes in respect of the levying of licences and taxes.

No. 49 provides for the levying of excise duties on locally made matches.

Labour.—No. 3 provides for the control and supervision of the recruitment of workers in general in accordance with the Convention adopted by the International Labour Conference in June, 1936.

No. 9 provides for the enactment of regulations by the Governor in Executive Council for the protection of factory workers against accident.

1940

[*Contributed by* C. A. HOOPER, ESQ., *Procureur-General.*]

FIFTY-SEVEN Ordinances were passed by the Council of Government and assented to by the Governor between April 16th and December 17th, 1940.

With the exception of the Administration of Estates by Consular Officers Ordinance, 1940 (No. 12), the Pensions (War Service) Ordinance, 1940 (No. 26), the Patents, Designs, Copyrights and Trademarks (Emergency) Ordinance, 1940 (No. 28), Import, Export and Customs Powers (Defence) Extension Ordinance, 1940 (No. 47), and the European Detainees (Control) Ordinance, 1940 (No. 57)—certain provisions of which may also affect persons and objects outside the Colony—the majority of these Ordinances deal with matters of purely domestic concern, amongst which the following are of importance:—

Law and Order.—No. 8 consolidates and brings up to date the law on promissory oaths.

No. 13 provides for a strict control over the practice of nursing in the Colony.

No. 19 controls and regulates the sale of food and drugs in the Colony, with a view to preventing unwholesome articles of food and drugs from being sold to the public.

No. 25 consolidates the law governing cinematographic exhibitions.

No. 29 provides for an up-to-date recast of the law governing the organization and management of the Mauritius Institute.

No. 37 affords additional protection from outrage and violence for officers of Township Boards in the exercise of their functions.

No. 43 secures complete powers of control for Government over the importation, production, manufacture and distribution of articles of food during the present state of Emergency.

No. 52 consolidates and brings up to date the law governing the possession of firearms by members of the public and the necessary control over the trade and circulation in the Colony of firearms and ammunition.

No. 57 provides the necessary powers for the detention and supervision of certain persons in the Colony during His Majesty's pleasure—a measure consequential upon the prevailing state of war.

Finance.—No. 10 consolidates the law dealing with the military contribution of the Colony and the exemptions from such contribution.

No. 26 provides that the time spent on war service by Civil Servants of the Colony who may be released for military service shall count for pension.

Nos. 33 and 34 modify the amount of tax payable by making the tax applicable to smaller incomes and imposing a surtax on large incomes.

Nos. 40 and 41, both of which operate jointly in enabling the Mauritius Agricultural Bank (i) to borrow funds not exceeding a million rupees by the issue of Bills in the Colony and (ii) to grant loans of less than Rs. 5,000 in amount from funds borrowed as aforesaid.

Nos. 21 and 49 provide for the raising of sums of money to be paid over to His Majesty's Government as a gift from the planting community of this Colony in aid of the prosecution of the war.

1941

[*Contributed by* C. A. HOOPER, ESQ., *Procureur and Advocate-General.*]

FIFTY-SEVEN Ordinances were passed by the Council of Government and assented to by the Governor between January 23rd and December 17th, 1941. With the exception of (1) the European Detainees (Control) (Amendment) Ordinance, 1941 (Ordinance No. 6 of 1941), (2) the Customs Tariff (Amendment) Ordinance, 1941 (Ordinance No. 15 of 1941), (3) the Emergency Legislation (Expiry) Ordinance, 1941 (Ordinance No. 39 of 1941), (4) the Excess Profit Tax Ordinance, 1941 (Ordinance No. 40 of 1941), and (5) the European Detainees (Control) (Amendment No. 2) Ordinance, 1941 (Ordinance No. 57 of 1941)—certain provisions of which may also directly or indirectly affect persons and objects outside the Colony—the majority of these Ordinances deal with matters of purely domestic concern amongst which the following are of importance:—

Law and Order.—The Maternity and Child Welfare Society Incorporation Ordinance, 1941 (No. 8), constitutes into a body corporate the aforenamed society and provides for its management.

The Police (Amendment) Ordinance, 1941 (No. 11), provides the necessary power for the use of the local police force or such part of it as may be considered expedient on military duties connected with the defence of the Colony during the present emergency.

The Ushers' Fees Ordinance, 1941 (No. 17), makes compulsory the payment of fees to Ushers by such persons as employ their services.

The Places of Public Entertainment (Closing Time) Ordinance, 1941 (No. 18), lays down a compulsory closing time for theatres, cinematographs, dancing halls and other places of public entertainment.

The Department of Education (Constitution) Ordinance, 1941 (No. 18), provides for the creation of a Department of Education for the control of the educational system of the Colony.

The Occupational Registration Ordinance, 1941 (No. 42), provides for the establishment of an occupational register in the Colony with a view to ascertaining the available man-power for any purpose connected with the present state of emergency.

The Sale of Canes (Control) Ordinance, 1941 (No. 47), re-enacts with various modifications the provisions of the law governing the sale of canes by planters to millers and the control over such sales in furtherance of the welfare of the sugar industry of the Colony.

Finance.—The War Savings Certificates Ordinance, 1941 (No. 3), enables Government to issue War Savings Certificates, attractive to small investors who, from patriotic as well as provident reasons, could thus contribute to the raising of funds towards the Empire war effort by way of a loan in the Colony.

The Distribution of Profits (Limitation) Ordinance, 1941 (No. 4), regulates the distributions of part of such profits as may accrue to business and other concerns in consequence of and during the present state of emergency.

The Mauritius War Loan Ordinance, 1941 (No. 5), enabled the raising of a loan in the Colony for the purpose of affording assistance to His Majesty's Government in connection with the present war.

The Excess Profit Tax Ordinance, 1941 (No. 40), provides for the levy of a tax on excess profits.

The Sugar Special Export Duty Ordinance, 1941 (No. 50), provides for the raising of sums of money to be paid over to His Majesty's Government as a gift from the planting community of this Colony in aid of the prosecution of the war.

Special.—The Muhammadan Waqf Ordinance, 1941 (No. 9), which governs pious foundations of the Muslim community of the Colony according to Muhammadan Law.

6. NORTH BORNEO

FOUR Ordinances were enacted during 1940.

Medical Practitioners.—No. 1, the Medical Registration (Amendment) Ordinance, 1940, provides for the registration in the State of medical practitioners holding degrees or licences in medicine or surgery, other than those degrees or licences mentioned in the original Ordinance, which the Governor may recognize in specific cases.

Registration of Designs.—No. 2, the United Kingdom Designs (Protection) Ordinance, 1940, provides for the protection in the State of designs registered in the United Kingdom.

Prisons.—No. 3, the Prisons (Amendment) Ordinance, 1940, amends the Prisons Ordinance, 1914, by defining mutiny, restricting the grounds on which whipping may be ordered and transferring the power to sentence a prisoner to whipping to the Court of a First-class Magistrate.

Emergency Powers.—No. 4, the Emergency Powers (Defence) (Amendment) Ordinance, 1940, enacted by the Court of Directors of the British North Borneo (Chartered) Company under powers reserved to them, adds to the Emergency Powers (Defence) Ordinance, 1939, a section authorizing the Governor to make regulations for requiring persons to place themselves, their services and their property at his disposal when he considers it necessary for certain purposes mentioned in the original Ordinance.

7. SARAWAK

[*Contributed by* K. H. DIGBY, ESQ., *Legal Adviser.*]

EIGHTEEN Orders were enacted during 1940, of which eleven were amending Orders.

New Orders.—The following new Orders were enacted :—

Auctioneers.—This Order repealed Order No. A1 (Auctioneers), 1933, which was re-enacted with modifications in that the conduct of auction sales was more specifically regulated, the commission on sales of all property was raised and the scale of costs, which had not proved of value in the past, was replaced by a provision permitting an auctioneer to charge his general out-of-pocket expenses.

Edible Birds' Nests.—This Order controlled the collection and sale of edible birds' nests. On the coming into operation of this Order only natives were allowed to acquire an interest in birds' nests caves.

Lepers.—This Order gave powers to arrest and detain lepers in the Leper Camp and to provide for their discharge in certain circumstances. Its effect was to regularize the practice which had hitherto followed.

Native Administration.—This Order provided for the appointment of native chiefs and headmen, who were given certain powers in native administration. The effect of this Order was again to make statutory, and to secure more uniformity in, the existing practice.

Native Courts.—This Order consolidated the law with regard to Native Courts and defined their powers in cases concerning native customary law and civil cases the value of the subject matter whereof did not exceed $50 and in which all the parties are natives. It specifies the custom according to which a case is to be tried when the parties are members of different races, thus removing an ambiguity which has frequently caused difficulty in this particular branch of the law.

Registration of Criminals.—This Order provided for the registration of criminals convicted of certain criminal offences.

Rural Areas.—This Order made provision for the control of areas which had not been declared municipal areas and repealed Part VI of Order No. M7 (Municipal), 1933, which dealt with rural areas. The powers of Residents and District Officers with regard to local administration are for the first time properly defined.

Amending Orders

THE most important amendments to the Statute Law are shortly described below:—

Forests.—The Chief Secretary was empowered to constitute State Land, Protected Forests or other Government Reserve a communal forest.

Immigration.—Female immigrants were required to comply with the conditions conditions imposed on male immigrants regarding entry into the State in that they must be in possession of a passport or Certificate of Identity, and that they must be guaranteed by a guarantor undertaking to refund to the Government all expenses incurred in connection with the repatriation of such immigrants within twelve months from their date of arrival in the State.

Land.—Natives may hold land of not more than four acres for 99 years free from rent on certain conditions.

Land Settlement.—The Native Authority must be consulted in all matters of native custom regarding land tenure.

Lotteries.—Power was taken to levy a tax on lotteries, raffles, sweepstakes and totalisators.

Maintenance Orders (Facilities for Enforcement).—The definition of "Mainenance Order" was amended to include, with reference to Northern Ireland, an Order or Decree for the recovery or repayment of the cost of relief or maintenance made by virtue of the provisions of the Acts of the Imperial Parliament of the United Kingdom entitled the Poor Relief (Ireland) Acts, 1839 to 1914.

Rice Control.—In the case of forfeiture of a deposit, provision for appeal to the District Court was made.

IX. WEST AFRICA

1. GAMBIA

[*Contributed by* A. G. B. MANSON, ESQ., *Legal Adviser.*]

FORTY-THREE Ordinances were passed during the year and the following call for special comment:—

Income Tax.—No. 14 imposes a tax on the chargeable income of any person accruing in, derived from or received in the Gambia.

Chargeable income means gains or profits from any employment or from any trade, business, profession or vocation ; dividends, interest or discounts, pensions, charges or annuities ; rents, royalties, premiums and other profits arising from property.

The tax is levied on the chargeable income of any person for the year immediately preceding the year of assessment. The Ordinance exempts certain income from tax, *inter alia,* war pensions or gratuities, the income of any religious, charitable or educational institution or any registered friendly society ; capital sums received by way of retiring or death gratuity or as consolidated compensation for death or injuries.

A deduction of £75 in the case of an unmarried person, and of £200 in the case of a married person, are allowed in ascertaining the chargeable income. Other deductions are given in respect of sums expended for repair of premises or renewal or replacement of machinery. The rate of tax is graduated and varies with the amount of the chargeable income. A fixed rate of 2s. 6d. in the £ was imposed on the income of companies (since raised to 4s.).

The Ordinance contains provisions setting up machinery for the assessment and collection of tax, the making of returns, appeals, etc., and fixes penalties for false returns, etc.

Finger-Prints.—No. 15 establishes a Finger-Print Bureau and makes provision for taking the finger-prints of any person in lawful custody for any offence which amounts to felony or involves fraud or dishonesty. If the person whose finger-print is taken is convicted, his conviction and sentence is recorded on the finger-print form. If he is acquitted, the finger-print form is destroyed. Entries on finger-prints forms taken by an authorized officer are admissible in evidence and can be used to prove previous convictions.

Workmen's Compensation.—No. 18 provides for compensation to workmen for injuries arising out of and in the course of their employment. It comes into force on January 1, 1942. It applies to any employment which may be specified by an Order of the Governor-in-Council. The Ordinance follows generally the United Kingdom legislation and is based on the Draft Model Workmen's Compensation Ordinance which was prepared in the United Kingdom and has been enacted in other West African Colonies.

Trade Unions.—Nos. 5, 26 and 38 enact the provisions of the United Kingdom legislation regarding peaceful picketing and prevention of intimidation, and the prohibition of actions of tort against trade unions and provide for appeals against a refusal or cancellation of registration of a trade union by the Registrar.

Sedition.—No. 27 enacts provisions relating to sedition, and seditious publications in the form which has been adopted in nearly all Colonies and Protectorates.

Labour.—No. 1 gives effect to the provisions of the Convention concerning the Regulation of certain Special Systems of Recruiting Workers which was adopted by the International Labour Conference in June, 1936.

No. 16 gives effect to certain Draft Conventions adopted by the International Labour Conference relating respectively to an unemployment indemnity for seamen in the case of loss or foundering of their ship, the minimum age for the admission of young persons to employment as trimmers and stokers and the compulsory medical examination of children and young persons employed on ships.

No. 33 enables the Governor-in-Council to make Regulations providing for the safety and fixing the hours of employment of, and the wages to be paid and the necessaries to be supplied by employers to, workmen employed on docks and quays.

No. 31 prohibits the employment of children under twelve years of age in any capacity except on light work of an agricultural, horticultural or domestic character by a member of the family of such child, where the type of work has been approved by the Governor-in-Council and restricts the hours of employment of any such child when engaged in such work.

Coroners.—No. 40 introduces a more simple form of Ordinance than its predecessor and abolishes the necessity for " a view," and also the coroner's jury, neither of which are regarded as being any longer indispensable.

Cruelty to Animals.—No. 34 gives authorized officers more summary powers to deal with cases of animals found in conditions causing or likely to cause unnecessary suffering. In some cases, for example, caged birds or overcrowding of animals during transport, some immediate action is needed by release or otherwise, and to have to defer suitable measures until a Court Order is obtained would defeat the purpose of the Ordinance. Such measures can be taken without the consent of the owner.

Yellow Fever.—No. 42 makes inoculation against Yellow Fever compulsory for persons of European or Asiatic race or origin.

War Legislation.—This includes a National Service Ordinance, a Patents and Trade Marks (Emergency) Ordinance, a Pensions (War Service) Ordinance. These do not require special comment.

1941

TWENTY-ONE Ordinances, chiefly small amendments, were passed in the year.

Factories.—A Factories Board, consisting of the Director of Works, the Medical Officer of Health and the Labour Officer is constituted by No. 8 to undertake the supervision of factories and machinery.

Wages.—The Labour Ordinance of 1933 is amended by No. 13 so as to secure that the minimum wages fixed by the Governor are paid by the employer.

Local Government.—Power is given to the Governor by No. 16 to declare any place in the Colony to be a township and any area in it may be reserved exclusively for residential, commercial, educational, recreational or other special purposes. Power to levy rates is included in the Ordinance.

Registration.—The Governor is authorized by No. 20 to make a register of any persons entering or residing in the Colony.

2. GOLD COAST

[*Contributed by* RAYMOND BROWNE, ESQ., *Solicitor-General.*]

DURING the year 1940 57 Ordinances were passed, of which 36 were amending Ordinances. The following may be briefly described:—

Elections.—No. 10 brings the existing electoral procedure into line with the new provisions for representation on the Legislative Council which were made by the Gold Coast Colony (Legislative Council) Amendment Order in Council, 1939.

Patents, Designs Copyright and Trade Marks.—Upon the outbreak of war the rights and privileges of enemies or enemy subjects in respect of patents and trade marks registered in this country, in respect of designs registered in the United Kingdom, and in respect of the ownership of copyright, became suspended. Such a position was clearly unsatisfactory, particularly in regard to commodities which are the subject of enemy patents, inasmuch as there may be a considerable public demand for them. It was therefore necessary to make provision for the supply of substitutes for such commodities by non-enemies without infringement of legal rights vested in enemy subjects. This is the object of No. 18, which is based upon the United Kingdom Patents, Designs Copyright and Trade Marks (Emergency) Act, 1939.

Moneylenders.—The statute law relating to moneylending in force in the Gold Coast prior to No. 21 was to be found in the Loans Recovery Ordinance (c. 146), an Ordinance which was incapable of overcoming the many evils resulting from the onerous terms frequently imposed by moneylenders. This Ordinance repealed c. 146 and provides more adequate control over moneylending, due regard being had to local conditions. It is based upon the Nigerian Moneylenders Ordinance, 1938 (No. 45 of 1938), which in its turn is largely based on the English Acts on this subject. Maximum rates of interest are prescribed and vary according to (i) whether the loan is secured or otherwise, (ii) the nature of the security, and (iii) the amount of the loan. Moneylenders are compelled to take out an annual licence at a fee of £1, and this licence is dependent upon grant of a certificate by a District Commissioner, who on defined grounds may refuse such grant, and provision has been made for suspension or forfeiture of a licence for good cause. Moreover, moneylending contracts must be in writing signed by the parties thereto, and moneylenders are required to keep proper business accounts, and refrain from employing touts.

Achimota College and School.—No. 38 enables the Achimota Council to utilize the provisions of the Public Lands Ordinance (c. 113) where land is required for the service of the College, but it is found impracticable for the Council to acquire it by other means.

Accra.—No. 44 gives statutory effect to the rehousing scheme undertaken in Accra by the Government after the disastrous earthquake of June, 1939. It was designed to perfect the title of the Government in order that the latter may be in a position to give undisturbed possession to those persons to whom house plots are allocated, and provision has been made for the determining of all outstanding questions and disputes as to the former ownership of these lands, and for the payment of reasonable compensation to any person who establishes that he had an interest in the lands but who has not conveyed it to the Government.

No. 45, which also arises out of the rehousing scheme caused by the earthquake, provides security for the repayment to Government of money expended on the building of dwelling-houses on plots owned by the applicant in cases where the latter's title is not free from doubt.

Workmen's Compensation.—No. 52 extends to the Gold Coast the principle of payment of compensation to certain classes of workmen for injuries suffered in the course of their employment. In order to give employers an opportunity of coming to terms with insurance companies the proclamation of its operation date is at present unpublished.

Emergency Legislation.—Considerable use has been made in matters of an urgent nature of the power of legislation conferred by the Governor by the extension to the Gold Coast of the United Kingdom Emergency Powers (Defence) Acts, 1939 and 1940. More important examples of this type of legislation are:—

(*a*) The Defence (Gold Coast European Volunteer Reserve) Regulations, 1940 (No. 30 of 1940), which constituted a military force styled "The Gold Coast European Volunteer Reserve." This force consists, as its name implies, of European volunteers, all of whom undertake spare time military training, with a liability to be embodied as a fighting unit in an emergency, in which case they come under military law.

(*b*) The Defence (Compulsory Service) Regulations, 1940 (No. 40 of 1940), introduced provision for compulsory service of a combatant or non-combatant nature for individual Europeans and for Africans when specified as a category or class. Certain specified persons are exempted from compulsory service, and provision has been made for exemption on grounds of conscience or undue hardship.

(*c*) The Defence (Local Forces Ordinance, 1939) (Amendment) Regulations, 1940 (No. 53 of 1940), and the Defence (Royal West African Frontier Force Ordinance) (Amendment No. 2) Regulations, 1940 (No. 54 of 1940), respectively amended the Local Forces Ordinance, 1939, and the Royal West African Frontier Force Ordinance (C. 44) by conferring upon the Governor the power by Order to place those bodies under the control of the Army Council, which power has now been exercised.

(*d*) The Defence (Compensation) Regulations, 1940 (No. 68 of 1940), based upon the United Kingdom Compensation (Defence) Act, 1939, provide for the payment of compensation in respect of land, vessels, etc., or any goods or articles, requisitioned in the interest of defence, supply or Gold Coast's war effort. A Tribunal is constituted to deal with disputed claims.

(*e*) The Gold Coast Home Guard Regulations, 1940 (No. 87 of 1940), constituted a Home Guard of volunteers for the Gold Coast, enjoying a status similar to that of the Home Guard in the United Kingdom.

1941

THIRTY Ordinances were passed in the year and consist mainly of minor amendments.

Legal Practitioners.—An addition is made to the law by No. 6 so that any person who not being a legal practitioner wilfully pretends to be or takes or uses any name, title, addition or description implying that he is qualified to act as a solicitor shall be liable to a fine of £10 or in default two months' imprisonment.

Labour.—The object of No. 12 is to regulate strikes and lockouts on the lines of English legislation and No. 13 promotes the registration and regulation of trade unions under the direction of the Chief Inspector of Labour as the Registrar of Trade Unions. Provision is made by No. 24 for the establishment of an Arbitration Tribunal and a Board of Inquiry in connection with trade disputes and for the purpose of enquiry into the economic and industrial conditions in the Colony.

Compulsory Service.—No. 15 is on the lines of legislation throughout the Empire enrolling British subjects and British protected persons for compulsory service in the prosecution of the war.

Savings Certificates.—The issue of savings certificates is authorized by No. 16.

3. NIGERIA

EIGHTEEN Ordinances were passed in 1940.

Commissions of Enquiry.—Power is given by No. 1 to the Governor to appoint Commissions of Inquiry on the same lines as legislation in other Colonies.

Taxation.—Thirteen Ordinances were repealed by No. 3, which now contains the law relating to the levying and collection of income tax and is amended by No. 14. A complementary Ordinance to No. 3 is No. 4, which also repeals previous legislation and contains the law authorizing the collection of taxes from natives.

Infanticide.—No. 12 enacts the law on infanticide as in England.

Treaties.—No. 17 gives effect to the provisions of eight treaties of commerce and navigation on the same terms as in other Colonies.

1941

SEVENTY-FIVE Ordinances were passed in the year.

Savings Certificates.—No. 7 authorizes the issue of Savings Certificates and is amended by No. 41.

Railways.—The Railway Provident Fund Ordinance is repealed by No. 15 and new provisions enacted for the constitution of the Provident Fund for certain non-pensionable servants of the Government Railway. It was amended by No. 60.

Guides.—Any person who for a reward of any kind whatsoever offers his services to any other person, for the purpose of directing him to any public or private place for the purpose of giving information about any such place must be licensed by the Superintendent of Police under the authority given by Ordinance No. 30. An amendment, in No. 70, substitutes "wayfarers" for "tourists" as describing the people conducted by guides.

Official Secrets.—The provisions of the Official Secrets Acts 1920 and 1939 are introduced into the Colony so far as applicable by No. 31.

Trade Disputes.—No. 32 is the Ordinance which has been passed in several Crown Colonies to establish an arbitration tribunal and a board of inquiry in connection with trade disputes and to inquire into industrial and economic conditions.

Forests.—The Forestry Ordinance 1937 is extended by No. 47 so that any native authority at the request of any native community within the area of its jurisdiction may with the approval of the President declare any lands within the area occupied by such native community to be a communal forestry area.

Workmen's Compensation.—Provision is made for workmen's compensation on the lines of English legislation by No. 51.

Excise.—The Tobacco and Excise Duties Ordinances 1933 and 1939 are repealed by No. 64, which is a more comprehensive measure to deal with the subject.

Aircraft.—The object of No. 65 is to assure the safety of aircraft by imposing restrictions upon the area of land and the erection of buildings in the vicinity of aerodromes.

Defence Zones.—The establishment of military units is authorized by No. 68 for the defence of the West African or other British or allied territories.

4. SIERRA LEONE

1939

[*Contributed by* G. CALLOW, ESQ., *Crown Counsel.*]

FORTY-FOUR Ordinances were enacted during the year, of which the five more important were closely concerned with Labour, whilst the sixth, the Motor Traffic Ordinance, repeals an older Ordinance and brings up to date the measures necessary for dealing with modern transport.

Trade Unions.—No. 21 has been enacted with the object of reproducing Trade Union Legislation on the lines of the Imperial Acts of 1871 and 1876, and will legalise trade unions formed and registered in Sierra Leone. Although the Ordinance follows very closely the provisions of the Imperial Trade Union Acts, it differs in this main respect, namely, all trade unions in Sierra Leone will have to be registered; this has been done to safeguard the interests of the population, which is largely illiterate, by reserving to the Government some measure of control to ensure the proper organization and lawful purpose of any proposed labour union.

Trade Disputes.—No. 42 is supplementary to the Trade Unions Ordinance, 1939, and follows the provisions of the Conspiracy and Protection of Property Act, 1875, The Trade Disputes Act, 1906, and the Trade Disputes and Trade Unions Acts, 1927. The chief purposes of this Ordinance are to regulate peaceful picketing and to protect trade union officials from actions in tort which might otherwise be brought against them for acts done in furtherance of the legitimate purpose of a trade dispute. The Ordinance also touches on the law of conspiracy where trade disputes are concerned, and declares the extent to which contracts of service may be broken as a result of a trade dispute.

No. 14 sets up machinery for the avoidance or settlement of trade disputes between employers and workmen. Arbitration proceedings are by consent, and the members of the tribunal are appointed by the Governor, who will cause the award to be published. Such awards are not legally enforceable, but there will be a strong moral obligation to accept, particularly in view of the public opinion that would form as the result of publication. The Board of Inquiry has a different object in view. It is intended to enable the Governor to have before him established facts relating not only to a labour dispute, but also to economic or industrial conditions.

Workmen's Compensation.—No. 35 follows closely a model Ordinance circulated by the Secretary of State and is drafted so as to ensure the utmost possible uniformity with similar measures in other West African Colonies. The amount of compensation payable is 42 months' earnings for total incapacity with a maximum of £750 and a minimum of £50, and in the case of partial incapacity a percentage of the amount payable for total incapacity.

Co-operative Societies.—No. 20 is to provide legislation for the proper supervision and conduct of Co-operative Societies. The Ordinance contains machinery for the registration of societies, and goes on to set out the duties and privileges of such societies ; it then deals with membership and the rights and liberties of members, and makes provision for dealing with disputes, and for audit, inspection and inquiries ; next it provides for dissolution of a registered society by a liquidator and for the general control of liquidation by the Registrar ; and finally the Governor-in-Council is given wide rule-making powers for the purpose of carrying out the Ordinance.

Motor Traffic.—No. 24 has been introduced in order to give effect to the International Motor Traffic Convention, The International Motor Traffic Taxation Convention, and the recommendations of an Advisory Committee set up in Sierra Leone to consider the revision of the existing motor traffic legislation. The most important alterations from the previous Ordinance are as follows:—(*a*) The revision and amplification of the rule-making powers ; (*b*) An increase of the permitted maximum speeds to conform with those obtaining in other countries ; (*c*) Greater restriction in the maximum loads to be carried by commercial vehicles to preserve road maintenance ; (*d*) Stronger powers to prevent the use of vehicles in a dangerous condition of repair ; and (*e*) Provision for the entry of foreign tourists without the payment of taxation for limited periods.

It will be observed that compulsory insurance has been omitted. This will be considered when some measure of uniformity as regards third-party insurance is reached in the Colonies.

1940

Of the 28 Ordinances placed on the Statute Book 23 amended or repealed existing measures, two dealt with supply and of the three remaining two concerned pensions (war service) and one the Administration of Estates by Consular Officers.

It can hardly be said that any of the 1940 legislation requires lengthy comment, but it may be of interest to note the following:—

Shipping.—The Survey of Boats (Amendment) Ordinance, 1940 (No. 6), was enacted with the object of reducing accidents in connection with sea-going launches. Such craft was often seen with persons and baggage perched precariously on the awning, and the practice was alleged to have been the cause of several capsizings.

Fauna and Flora.—The object of No. 27 was to implement, as far as possible, the provisions of the International Convention for the Protection of Fauna and Flora made at London, November 8, 1933.

Animals' Diseases.—As the law stood only animals which were infected or suspected of being infected with disease could be treated and slaughtered. The amending Ordinance (No. 17) gives power to declare an area to be an infected area, and to make rules to provide for the treatment and slaughter of animals within such areas. Comprehensive rules affecting cattle movement in case of infection are in draft.

Including Defence Legislation, 150 measures were enacted during 1940 in a manner which would formerly have caused them all to be described as subordinate legislation. In some instances it was found necessary to amend an Ordinance by means of a Defence Regulation, but this was not frequent. Perhaps from a point of view of general interest, other than any connected with the prosecution of the war, the most important pieces of subordinate legislation cover the revision of the Prison Rules for the Colony and Protectorate.

1941

Of the 28 Ordinances placed on the Statute Book 18 amended existing measures, two dealt with supply and the remaining eight were new Ordinances.

Of the new measures the following are of interest:—

Compensation.—No. 13 follows the United Kingdom Compensation (Defence) Act, 1939. It provides for the payment of compensation in respect of claims arising out of actions taken in matters of defence and the prosecution of the war.

Machinery.—No. 14 represents a considerable stride forward in industrial legislation. It amplifies and augments the safe working provisions of the Minerals Ordinance, 1927, and provides generally for the safeguarding and inspection of machinery.

Moneylenders.—No. 15 came into operation on January 1, 1942. It repeals and replaces the Moneylenders' Ordinance, 1924. It is based on the Nigerian Moneylenders' Ordinance, 1938, which in turn is largely based on the English Acts on this subject.

It was for long felt the provision of the existing Ordinance was not strong enough to cope with the many evils resulting from the onerous terms frequently imposed by moneylenders in Sierra Leone, and the new Ordinance combats this by prescribing maximum rates of interest. It further requires the moneylender to keep books, and restricts advertising and the employment of touts.

Labour Supply.—No. 22 follows a Model Ordinance drafted by the Secretary of State. Its purpose is to bring under State supervision the recruitment of workers in the Colony and Protectorate.

Corporal Punishment.—No. 20 repeals and replaces the Flogging Regulation Ordinance, 1924. It carries into effect certain recommendations of the Secretary of State based on the Report of the Departmental Committee which advised that the age of " young persons " should be raised to eighteen, and also to prescribe the actual parts of the body upon which correction shall be administered.

Compulsory Service.—No. 28 came into force on January 1, 1942. It is a measure necessary for the better prosecution of the war and embodies all the essential obligations imposed by Parliament upon His Majesty's subjects in the United Kingdom. The more important provisions of the Ordinance permit exemption of persons from combatant service on the ground of conscientious objection, and the re-instatement in their employment at the conclusion of service of persons called up.

It was found necessary to bring into force 92 measures of Defence Legislation during the year. An important one of these measures prohibited strikes and laid down procedure for the settlement of labour disputes ; another legislated for the control of employment and the Governor's power to schedule certain undertakings as Essential Works, thus restricting employers and employed from terminating employment. Rent restriction was also dealt with under the Emergency Powers (Defence) Act, 1939, and has given considerable satisfaction besides assisting to keep down the cost of living.

Eighty-four subordinate legislative measures were passed in 1941.

X. EAST AFRICA

1. KENYA

[*Contributed by* T. A. Brown, Esq., *Solicitor-General, Kenya.*]

The following is a summary of the more important enactments of general interest among the forty-seven passed during the year 1940.

Trade Unions.—No. 1 sets forth what constitutes peaceful picketing with regard to trade disputes on the lines of provisions existing in the United Kingdom Trade Disputes and Trade Union Act, 1927.

Naval Volunteer.—No. 2 provides for the raising of a force for the naval defence of the Colony.

Soil Conservation.—No. 4 provides for the preservation of Land and Water Resources of the Colony and for matters incidental thereto.

Trade Disputes (Arbitration and Inquiry).—No. 5 provides for the establishment of an Arbitration Tribunal and a Board of Inquiry in connection with Trade Disputes on the same lines as has been passed in other Colonies.

Administration of Estates by Consular Officers.—No. 7 implements certain provisions contained in Commercial Treaties by providing that when a subject or citizen of any of the States referred to in the Ordinance dies in the Colony, or dies outside the Colony leaving property in the Colony, then a competent Consular of the State to which the deceased belongs is empowered, under certain circumstances, to take custody of and administer the estate of the deceased.

Stamp.—No. 10 is an Amending Ordinance which exempts cheques drawn on behalf of Naval, Military and Air Forces Authorities, an exemption similar to that in force in England and various other Colonies.

Income Tax.—No. 11 consolidates and amends the law relating to income-tax. The re-enactment was necessary to meet the position created by the introduction of Income Tax into neighbouring territories.

Rent Restrictions.—No. 12, which is based on the United Kingdom legislation restricts the increase of rents of dwelling-houses and business premises and the rate of interest on mortgages secured on dwelling-houses and business premises to the rate existing on various prescribed dates declared by or under the provisions of the Ordinance.

Land and Agricultural Bank.—No. 14 enables the Land and Agricultural Bank of Kenya to make advances on the security of crops and chattels. This is an innovation, because until this Ordinance was enacted the Land Bank had only, save in a few exceptional cases, been able to make advances on the security of first mortgage of land. The Ordinance is designed to assist to a limited extent farmers during the present difficult period so that the production of essential crops and livestock may be increased.

Kenya Naval Defence.—No. 17 is complementary to No. 2 above referred to and provides, after the prior approval of His Majesty in Council, for maintaining vessels of war and offering such vessels for general service in the Royal Navy.

Pensions (War Service).—No. 21 provides that the time spent by European officers on war service will count as service on full pay for the purposes of Colonial pension.

Patents, Designs, Copyright and Trade Marks (Emergency).—No. 23 follows the Imperial Act enacted in 1939 on the subject and gives retrospective effect to the date of the outbreak of the present war.

Alienation of Immovable Property to Enemy Subjects (Restriction).—No. 24 prohibits, during the continuance of the present war, land transactions with enemy subjects, except with the consent of the Governor-in-Council.

Courts (Emergency Power).—No. 27 follows the provisions of the Imperial Courts (Emergency Powers) Act, 1939, 2 & 3 Geo. 6, c. 67.

Soldiers (Exemption from Civil Process).—The provisions of No. 38 are analogous to those of s. 144 of the Army Act, 44 & 45, Vict., c. 58, and provides for the exemption of soldiers in respect of certain civil processes.

Taxation of Heavy Oil Vehicles.—No. 31 doubles the licence fees under the Traffic Ordinance, 1928, on mechanically-propelled vehicles which do not use petrol subject to the tax imposed by the Dangerous Petroleum Tax Ordinance and which do not therefore contribute to the revenues of the Colony to the same extent as petrol-driven vehicles.

Employment of Servants.—No. 35 has been passed at the request of the Arab community and has the effect of excluding Arabs from the scope of the Employment of Servants Ordinance, 1937.

Native Authorities.—No. 37 provides for Liwalis and Mudirs, specially appointed by the Provincial Commissioner of the Coast Province, becoming more closely associated with the native administration within the limits of their respective jurisdiction in the Protectorate of Kenya.

Native Tribunals.—No. 38 makes the provisions of the Penal Code and the Criminal Procedure Code relating to costs and compensation applicable to Native Tribunals and enables certain Liwalis and Mudirs to entertain appeals from Native Tribunals within the Protectorate of Kenya.

Customs and Excise Duties.—No. 39 makes provision for the protection of public revenue by diminishing the possibility of intelligent anticipation of alterations in the Customs Tariffs or Excise Duties while yet retaining full opportunity for discussion and criticism of the measures in which the alterations are proposed.

War Risks Insurance.—No. 41 provides for the insurance of certain goods against King's enemy risks during the present war.

War Loan.—No. 42 enables a war loan to be raised in Kenya.

Native Liquor.—The principal object of No. 43 is to permit large employers of labour to establish native liquor canteens for the natives employed by them and ensures that any profits derived from the manufacture and sale of native intoxicating liquor in any such canteens shall be paid to the local authority to be used for the benefit of the natives resident in such area.

Personal Tax.—No. 45 imposes a personal tax, based on the income of the individual, in lieu of the present Non-Native Poll Tax.

Trading Licences.—No. 46 imposes during the present war a special surcharge of 50 per cent. on the fees payable for trading licences.

1941

FORTY-FIVE Ordinances were passed in the year and contain almost entirely minor amendments.

Native Liquor.—By No. 6 no person shall be in possession of, manufacture, conserve, sell or supply any native spiritous liquor in any area in the Colony.

Excess Profits.—No. 14 imposes a tax on excess profits.

Forests.—Previous legislation is repealed and the whole law relating to forests is now contained in No. 26.

Legislative Bodies.—No. 29 is the usual ordinance protecting members of legislative bodies from disqualification owing to being on war service.

Land Transfer.—The object of No. 30 is to lay down the procedure to be followed in dealing with trusts relating to the holding of land.

Fires.—The careless use of Fire Precaution Ordinance is repealed by No. 41, which now provides for the control of grass fires.

2. NYASALAND PROTECTORATE

THIRTY-FOUR Ordinances were passed in 1940.

National Service.—No. 1 gave powers to the Governor to provide for the enlistment and control of men for service during the emergency. It was amended by No. 32 to keep open employment for an employee.

Administration of Estates.—No. 7 puts into operation treaties dealing with the administration of estates of the subjects of various foreign countries.

Compensation.—The object of No. 19 is to make provision for the payment of compensation by the Government arising from claims due to the use of the emergency powers in respect to the possessors of land.

Defence Zone.—No. 20 provides for the establishment of the Nyasaland Defence Force.

1941

TWENTY-TWO Ordinances were passed in the year.

Pharmacy.—The Sale of Drugs and Poisons Ordinance is repealed and in its place with amendments No. 3 now provides for the control of the profession of pharmacy and the sale of poisons.

Savings Certificates.—No. 17 provides for the issue of savings certificates.

3. SOMALILAND PROTECTORATE

[*Contributed by* MAJOR GEORGE PATERSON.]

IN the seven months before the evacuation of the Protectorate by His Majesty's Forces, eight Ordinances were passed.

Administration of Estates.—No. 3 authorizes the administration of the estates of certain deceased foreigners by Consular officers.

1941

SIX Ordinances were passed.

Validation of Laws.—No. 4 validates certain legislation enacted by the Military authorities on the re-occupation of the Protectorate by His Majesty's Forces and before the commencement of the Somaliland (Military Administration) Order-in-Council, 1941, which came into operation on May 9 and substituted a military governor for the civil administration while leaving unaffected the law-making authority embodied in the earlier Orders-in-Council.

4. TANGANYIKA TERRITORY

[*Contributed by* H. H. KINGSLEY, ESQ., *Crown Counsel.*]

THE Ordinances enacted during the year 1940 were 52 in number, and of these no fewer than 28 were of an amending nature. The following are the more important of the enactments made during the year:—

Prices of Goods.—No. 4 regulates the prices at which certain specified goods are sold, the principle being to throw the onus upon the seller of such goods to show that the selling price, if in excess of the pre-war price, is justified by certain considerations, which are set out in the Second Schedule of the Ordinance. By s. 4 of the Ordinance the Governor in Council has powers to alter either the First Schedule (list of specified goods) or the Second Schedule (matters justifying an increase in prices over the basic price) and by s. 5 he is given power directly to control the price at which goods may be sold. The Ordinance incorporates the principles of the Prices of Goods Bill passed in England since the outbreak of war.

Employment of Women and Young Persons.—No. 5 incorporates the provisions of the Employment of Women Ordinance, 1938, and also those of six international labour conventions relating to the employment of women and young persons in industry and on ships. Provisions are made whereby the employment of such persons may be controlled and the conditions under which they work improved.

Apprenticeships.—No. 6 makes provision for the making of contracts of apprenticeship under the supervision of an administrative officer in charge of a district, and in so doing incorporates the principles which in similar legislation have been adopted in other Colonies.

Sale of Wheat.—No. 7 provides for the establishment of a Wheat Board, upon whose representation the Governor in Council may make orders providing for the compulsory marketing of wheat. S. 4 (1) provides that not fewer than five and not more than seven members of this Board are to be nominated by the Wheat Growers' Association, thus ensuring close co-operation between the industry and the Board. Furthermore, such co-operation is further ensured by the powers in s. 4(2) whereby, if there be more than one Wheat Growers' Association, each such association has the right to nominate as many members as the Governor may determine.

Criminal Procedure Code.—No. 17 deals *inter alia* with the question of appeals to the High Court. Previous to the enactment of this Ordinance, every appeal to the High Court against conviction, however frivolous or ill-founded, had to be set down for hearing and notices issued both to the accused and the Attorney-General. This Ordinance simplifies matters by providing that whether the appeal be against sentence or against conviction, if the court considers that the evidence before the lower court was of such a nature that it could not possibly interfere with the decision of that lower court, it may forthwith summarily reject the appeal by an order certifying that after perusing the record the court is satisfied that the appeal has been lodged without any sufficient ground of complaint.

Game.—No. 20 implements as far as is possible within the scope of a Bill dealing with the preservation of animals, many of the decisions of the 1933 International Convention relating to the preservation of fauna and flora. *Inter alia,* the Ordinance establishes a National Park in the Serengeti plains in which a permit system controls the movements of all persons within the Park, the hunting of all animals being strictly forbidden. Similarly the existing game reserves in the Territory are maintained and hunting therein strictly controlled.

Patents, Designs, Copyright and Trade Marks.—No. 21 is based on the Imperial Act dealing with those matters and is designed to safeguard the sale of non-enemy substitutes for products which are covered by patents, designs or copyrights in force in Tanganyika and owned by enemies or enemy subjects. It also provides for the suspension of trade mark rights in Tanganyika of an enemy or an enemy subject where to describe an article or substance without the use of such trade mark is difficult or impracticable.

Compulsory Service.—No. 23 introduces conscription into the Territory for all British and British-protected male persons. It makes all those between the ages of eighteen and forty-five who are neither medically unfit nor exempted on the ground of conscientious objection liable to military service, whilst those over forty-five are made liable for such other kinds of service as the Governor may consider necessary in the public interest.

Income Tax.—No. 38 is a comprehensive measure introduced among other reasons to meet the position created by the introduction of income tax into Uganda and Zanzibar. Furthermore, the existing law in this Territory has been modelled on the Kenya Ordinance, and experience of that Ordinance having shown the need of a number of amendments, they are by means of this Ordinance introduced into this Territory.

A person who has income in more than one Territory would normally have to make a separate return to the proper authority in each Territory concerned. This would ordinarily mean that cases of double taxation would presumably arise, with their consequent clauses for rebate, and to avoid this a person is now assessed in the Territory in which he resides on the whole of his income in any of the three Territories and the tax which he pays is allocated between the revenues of the Territories concerned. In the case of new residents, they are granted the option of making one return to one Territory, and that return is available for the use of the other two Territories.

Tobacco.—No. 39 provides for the establishment of a Native Tobacco Board for the purpose of controlling the cultivation, preparation and marketing of native tobacco, the prime object being the more effectively to organize the sale of native tobacco. S. 4 provides for the inclusion in this Board of certain native tobacco-growers, thus ensuring close co-operation between the Board and the industry.

Soldiers (Exemption from Civil Process).—No. 44 brings this Territory into line with the other East African territories in extending to all military units serving in East Africa protection against civil proceedings. The Ordinance, of course, does not cover soldiers of the regular forces, as these are already provided for by s. 144 of the Army Act.

1941

THIRTY-NINE Ordinances were passed in the year.

Excess Profits.—No. 1 imposes a tax on excess profits.

Courts.—The object of No. 15 is to establish Courts subordinate to the High Court with jurisdiction in civil and criminal matters presided over by a magistrate.

Cattle Tax.—During the war No. 19 puts a tax on the sale of cattle in public markets.

Rent Restriction.—No. 26 imposes restrictions on the increase of rent and mortgages on the lines of English legislation.

Interpretation of Statutes.—The object of No. 38 is to clarify the meaning of expressions signifying the date of termination of the present war.

5. UGANDA PROTECTORATE

TWENTY-TWO Ordinances were passed in 1940.

Criminal Procedure.—No. 1 makes a number of amendments in the Criminal Procedure Code. It gives a magistrate power to sit with assessors if he is of opinion that questions concerning provocation or native or foreign custom and usage may arise or that the offence complained of is of an aggravated, serious or unusual character, or that for any other reason assessors would be of assistance to the court. Procedure in such cases in the High Court is to apply to the subordinate court. The Ordinance deals with the powers of the police to arrest and to detain and search persons and vehicles in certain circumstances and covers details in relation to charges and the description of offences. Another section covers the cases when the wife or husband may be called for the prosecution. It incorporates the English law relating to infanticide, enables a person charged with manslaughter to be convicted of reckless driving and makes amendments in the law relating to offences against the person. Persons charged with stealing may be convicted of receiving or obtaining by false pretences and vice versa. Further amendments are made by No. 14.

Subordinate Courts.—Courts subordinate to the High Court are constituted and their jurisdiction and powers defined by No. 2. The constitution of Native Courts in the Protectorate outside Uganda is dealt with in No. 3 and within Uganda by No. 4.

Civil Procedure.—By an amendment of the Civil Procedure Ordinance No. 5 enlarges the jurisdiction of the subordinate courts.

Administration of Estates.—The ordinance which has been passed in various Colonies to facilitate the administration of the estates of deceased nationals of foreign state in accordance with specified international conventions is No. 7.

Income Tax.—Income-tax is introduced into the Protectorate by No. 8.

National Service.—Authority to introduce compulsory military and other service is given by No. 9. The Governor is empowered by No. 10 to raise a local military force for the defence and internal security of the Protectorate.

Patents and Copyright.—The powers necessary to safeguard trading with the enemy are given by No. 15 in respect to patents, registered designs, copyright and trade marks.

War Service.—The usual provisions are contained in No. 16 to provide for the exemption of soldiers in respect to certain civil processes. Civil Servants serving with the forces have their pension rights protected by No. 17.

Beverages.—The control of the export and production of tea is covered by No. 19. The Bugishee Coffee Scheme is established and regulated by No. 22.

1941

TWENTY Ordinances were passed in 1941.

Pensions.—A Provident Fund was established by No. 1 for certain non-pensionable employees of the Government. Amendments in the Pensions Ordinances for European officers were made by No. 2 and for Asiatic officers by No. 3.

Trade Unions.—Amendments in the Trade Union Ordinance 1937 are made by No. 6 to deal with peaceful picketing and trade disputes.

Excess Profits.—A tax on excess profits is introduced by No. 10. Other Ordinances were of an amending character or covered routine matters such as supply.

6. ZANZIBAR.

[*Contributed by* A. HALLAM ROBERTS, ESQ., *Acting Attorney-General.*]

DURING the year 31 Decrees were passed. The following is a list of the more important of these measures and contains a summary of the objects and reasons therefor:—

Income Tax.—No. 1 implements the decision to introduce income-tax in Zanzibar and also in the Territories of Tanganyika and Uganda. It is practically identical with the Kenya Income Tax Ordinance, 1940, which was designed to meet the position created by the introduction of income tax in Tanganyika, Uganda and Zanzibar.

Stamp Duties.—No. 5, which is based on up-to-date legislation elsewhere, has been enacted in order to bring the Stamp Duties law in the Protectorate at present contained in c. 95, up to date. There are a number of alterations in the Decree from the provisions of c. 95 (now repealed) both in the enactment itself and in the First Schedule, which contains the descriptions of the various instruments and the duties to be charged thereupon. As to the First Schedule, which contains the descriptions of instruments and the relevant stamp duty, it should be remarked that the Schedule of the repealed Decree contained only 15 items ; the new Schedule is much more adequate, containing, as it does, 65 articles. It follows accepted models elsewhere.

Estate Duty.—No. 6 replaces the Estate Duty Decree (c. 96) with provisions more closely conforming to those of the neighbouring Territories. Under this Decree the Administrator-General will be charged with the general care and working of the Decree. He is to be styled for this purpose " Estate Duty Commissioner " in order to differentiate between his various capacities in other directions, such as that of the Public Trustee, but the wording of the appointment (s. 3) is such as to enable the British Resident to appoint some other public officer to be the Commissioner, if thought desirable later on. S. 6, which deals with the property to be included in an estate, is a considerable enlargement and improvement of s. 6 of the Estate Duty Decree, now repealed. An exemption is granted under sub-s. (2) of this section in respect of gratuities which may be received by both European and non-European estates in the case of death of a public officer while still in the service. S. 8 provides for the exemption of estates not exceeding Shs. 1,000. The exemption under the Schedule to c. 96 was Rs. 50. S. 11 provides new principles for determining the value of an estate, and s. 12 makes fuller provision for allowances for debt. Other new provisions to which reference may be made are ss. 15 and 16, liability of executors, beneficiaries and trustees for duty ; s. 19, power to raise duty by sale or mortgage ; and s. 20, estate duty to be borne by beneficiaries rateably. By s. 17 estate duty is now to be deemed to be in arrear after the lapse of four months. The period hitherto had been six months. The provisions of s. 21 gives the Commissioner wider powers to call for the production of documents and attendance for examination and a penalty for non-compliance has been added. In s. 25 appeals against assessments are covered by much fuller provisions than the ones in s. 16(3) of c. 96, now repealed. S. 27 similarly provides a better and clearer method for the summary recovery of estate duty in future. The power to accept composition of estate duty under s. 32 is new. Ss. 35, 36, and 37 also provide instances of minor improvements which have been introduced. As regards the Schedule, the maximum value on which 6 per cent. duty is chargeable has been decreased to £20,000 (Shs. 400,000).

Deportation.—No. 8 replaces the Deportation Decree (c. 42), and makes provision for the expulsion of undesirable persons from the Protectorate and alternatively for their restriction of movement and for the giving of security by them for their good behaviour and for expense which may be incurred by Government in consequence of their misbehaviour.

Public Servants (Non-Europeans) Liabilities.—No. 13 has been enacted to prevent recurrence of cases of serious indebtedness of Government officers of subordinate rank resulting in the impairment of their efficiency. It applies to all non-European Government officers.

War Taxation (Income Tax).—No. 16 has been enacted with the object of providing increased revenue from income tax to meet present conditions.

Royal Marriages.—No. 18 has been enacted with the object of giving legislative effect to the well-recognized Arab custom and practice that no marriage of a female member of the Royal Family (Aulad Imam) is valid until consent thereto is given by His Highness the Sultan as the head of the family.

Criminal Procedure.—An amending Decree No. 20 has been enacted in order to simplify the procedure in petty cases and thereby reduce the pressure on certain magistrates' courts, a necessary measure in view of the present shortage of staff due to the war. In petty cases it will no longer be necessary for magistrates to record evidence, the only particulars which must be recorded are those specified in sub-s. (2) of the new s. 185A, and to empower the subordinate court which convicts a person to grant bail or suspend his sentence pending an appeal, in the same way as the High Court (*cf.* s. 21 of Kenya Criminal Procedure Code (Amendment) Ordinance, (1935).

Master and Native Servants.—No. 27 has been enacted with a view to implement to a large extent a Convention, adopted at the 25th Session of the International Labour Conference, held in 1939, advocating progressive abolition of penal sanctions for breaches of contract.

Patents, Designs and Trade Marks (Emergency).—No. 28 provides for safeguarding the sale of non-enemy substitutes for products which are covered by patents or designs in force in the Protectorate and owned by enemies or enemy subjects ; and for the suspension of trade mark rights in the Protectorate of an enemy or an enemy subject where it is difficult or impracticable to describe an article or substance without the use of such trade mark.

Court Petition-Writers.—No. 30 prohibits any person, with the exception of those persons exempted in the proviso in s. 3, from writing or preparing for reward certain documents for use in civil proceedings in court unless such person has first obtained a licence to act as a Court Petition-Writer. The Chief Justice, with the approval of the British Resident, is empowered to make rules for carrying out the objects and purposes of this Decree.

1941

SEVENTEEN Decrees were enacted in the year.

Trade Unions.—The registration of trade unions was introduced by No. 3.

Master and Servant.—By an amendment of the Master and Servant Decree No. 6 imposes a penalty for inducing or instigating another to induce a servant to quit his employer's service.

Legal Practitioners.—The object of No. 8 is to prohibit the drawing or preparation of legal documents by unauthorized persons and to regulate the remuneration of advocates.

Excess Profits.—A tax on excess profits is introduced by No. 12.

XI. SOUTH ATLANTIC

1. BRITISH GUIANA

[*Contributed by* A. C. BRAZAO, ESQ., *Crown Counsel.*]

DURING the year 1940 thirty-five Public Ordinances were passed. The more important were the following:—

Prisons.—No. 5 permits the use of firearms by prison officers for the purpose of preventing escape or violent assault and of preventing or suppressing mutiny.

Employment of Women, Young Persons and Children.—No. 7 was enacted to give effect to Article 8 of the Night Work (Women) Convention (Revised), 1934. This was done by repealing, and re-enacting with the new article inserted, Part III of the Schedule to the Employment of Women, Young Persons and Children Ordinance, 1933 (No. 14).

Accidental Deaths and Workmen's Injuries (Compensation).—No. 9 amends c. 265 to bring the local law on the subject in line with recent legislation in the United Kingdom. The amending Ordinance extends the law to include dependants who would otherwise have been excluded by reason of illegitimacy. It also makes better provision for the assessment of damages.

Firearms.—No. 11 replaces the Arms and Ammunition Ordinance, c. 75. It was enacted to make more effective the control of the importation, sale, possession and use of firearms.

Customs Duties.—No. 13 removes, during a certain period of the year, the duty on sweet potatoes imported from any British West Indian Colony. It exempts from duty certain articles used in connection with schools and with medical and scientific work.

Taxes.—No. 14 reduces the excise duty on locally manufactured overproof perfumed spirits other than bay rum and lime rum to a figure to enable them to compete with the imported articles.

No. 23 was passed to remove from the Tax Ordinance, 1939 (No. 43), the provision for the payment of licence fees in respect of motor vehicles and trailers. This Ordinance is supplementary to Ordinance No. 22.

No. 35 reduces the fee payable in respect of a licence to trade in precious stones to the same figure as that payable in respect of a licence to trade in gold.

Spirits.—No. 15 amends the Spirits Ordinance, c. 110, to increase the penalty for the unlawful possession of distilling apparatus. It extends the maximum penalty of imprisonment from six to twelve months.

Patents, Designs, Copyright and Trade Marks (Emergency).—No. 16 provides that orders or licences granted under the United Kingdom Patents, Designs, Copyright and Trade Marks (Emergency) Act, 1939 (2 & 3 Geo. VI, c. 107), shall have effect in the Colony. Owing to war conditions provision is also made in this Ordinance for the Registrar of Patents, Designs and Trade Marks to extend the time limit for doing any act under the Patents and Designs Ordinance, 1937 (No. 9), or under the Trade Marks Ordinance, c. 59.

Motor Vehicles and Road Traffic.—No. 22 consolidates the law on road traffic and makes better provision for the licensing, regulation and use of motor vehicles and the regulation of traffic on roads. The collection of licence fees has been transferred from the District Commissioners' department to the Commissioner of Police as Licensing Authority.

Drainage and Irrigation.—No. 25 establishes one central authority for the control and supervision of all drainage and irrigation areas in the Colony. All lands comprised in drainage and irrigation areas are registered in the name of and vested in the Board (the central authority). The Ordinance consolidates the existing law on the subject.

Georgetown.—By No. 27 power is conferred on the Georgetown Town Council to exempt or to exempt partially from the liability to pay taxes or rates for a period of three years from January, 1940, the owners of certain properties in the city who effect improvements to their property during that period. The exemption is in respect of the improvements. The Ordinance gave effect to a resolution of the town council.

Colonization Fund (Reserve Appropriation).—No. 29 transfers to general revenue the assets standing to the credit of the Colonization Reserve, which is a part of the fund established by Ordinance No. 7 of 1937.

Gambling.—No. 31 amends c. 95 so as to prohibit within the Colony the traffic in lottery tickets in respect of any lottery conducted elsewhere than in the Colony, including lotteries conducted within the Empire.

Air and Naval Bases.—No. 34 was enacted for the purpose of acquiring certain areas as colony lands in order that these areas might at a later date be leased to the Government of the United States of America for use by that Government as air or naval bases.

1941

THERE were thirty-one Ordinances enacted during the year 1941. The principal of these were:—

Excess Profits Tax.—No. 1 imposes a tax on the profits of business carried on in the Colony where the profits are in excess of a fixed standard to the extent of three-fifths of that excess. Insurance companies are exempted from payment of the tax. No. 28 amends No. 1 by increasing the tax to four-fifths of the excess in the case of companies and partnerships.

Income Tax.—Three Ordinances—Nos. 2, 13 and 29—deal with income-tax and they make provision for increasing the rate of tax and for deducting amounts paid as excess profits tax in ascertaining the chargeable income.

Legal Tender.—No. 5 gives effect to reciprocal arrangements with the neighbouring Colonies of Trinidad and Tobago, and Barbados, and enacts that Government currency notes which are legal tender in those Colonies shall be legal tender in this Colony.

Judicial Proceedings.—No. 14 regulates the publication of reports of judicial proceedings in such manner as to prevent injury to public morals and is based on the English Judicial Proceedings (Regulation of Reports) Act, 1926 (16 & 17 Geo. V, c. 61).

Transport and Harbours.—No. 16 amends the Transport and Harbours Ordinance, 1931. It provides for the liability of owners or masters in the case of loss or damage caused by vessels under compulsory pilotage.

Pensions.—No. 20 amends the Pensions Ordinance, 1933, to extend to the dependants of non-pensionable Government officers killed on duty the benefits of pensions now enjoyed by dependants of pensionable officers in similar circumstances. It provides for pensions to dependants of certain officers killed as a result of enemy action while travelling to or from the Colony and for increased pensions to officers permanently injured while so travelling. There is also provision against dual benefits under both this Ordinance and the Workmen's Compensation Ordinance, 1934.

Rent Restriction.—No. 23 is designed to prevent unwarranted increases of rent of dwelling-houses during the war. It is limited to houses the standard rent of which, fixed as at September 3, 1939, does not exceed $480 per annum. Certain specified increases are however permitted. Landlords may only evict tenants in certain circumstances set out in the Ordinance. The duration of the Ordinance is limited to one year, but provision is made for its extension from year to year, if necessary.

Public Loans.—No. 24 is supplementary to the General Loan and Inscribed Stock Ordinance (C. 46) and makes provision for the raising of loans in London independently of that Ordinance when such action is authorized by the Legislative Council. No. 25 applies only to loans raised in the Colony. Under this Ordinance loans may be raised by debentures, the principal monies and interest represented by which are charged upon and payable out of the general revenues and assets of the Colony. No. 26 gives power to raise a loan of £820,000 for the purpose of redemption of an outstanding loan, and invokes the provisions of the above two Ordinances as well as the General Loan and Inscribed Stock Ordinance (C. 46) for the method of raising the loan.

United States Bases.—No. 27 is a temporary measure giving the Governor power to legislate by Order to give effect within the Colony to the Agreement between the Goverment of the United Kingdom and the United States of America relating to the bases leased to the United States of America in certain territories including this Colony.

2. BRITISH HONDURAS

SEVENTEEN Ordinances were passed in 1940.

Labour.—No. 1 makes provision for fixing a minimum wage for labour with the assistance of advisory boards appointed by the Governor.

Criminal Procedure.—Amendments are made by No. 2 in Criminal Procedure for the protection of the accused person in connection with his committal for trial and for sentence.

War Sur-tax.—The Package Tax on packages imported into the Colony imposed in 1938 is supplemented under No. 3 by a war surtax. A similar addition is made to income tax by No. 4.

Employment of Children.—The employment of children under 14 is regulated by No. 8. Children under 12 may not be employed and employment during school hours is forbidden. A child may not be employed for more than two hours on a day which he attends school or on Sunday, and his occupation must not be likely to be injurious in any way.

Administration of Estates.—No. 9 is the ordinance which has been passed in various Colonies to provide for the administration of estates of foreign nationals.

Aliens.—The Governor is empowered by No. 14 to prohibit the entry into the Colony of any alien.

Criminal Lunatics.—By amending the Medical Services and Institutions Ordinance No. 17 provides for criminals to receive attention when their mental condition is in question.

1941

TWENTY-EIGHT Ordinances were passed in 1941.

Trade Unions.—Provision is made by No. 1 for the organization of trade unions.

Cinematograph.—By amendments of the Cinematograph Ordinances No. 5 provides for the appointment of a Board of Film Censors.

Probation of Offenders.—Previous legislation on the subject of the probation of offenders is repealed by No. 9, which with amendments now contains the law on the subject.

Diseases of Plants.—Another consolidating ordinance is No. 15 dealing with the prevention, eradication and control of diseases and pests affecting plants.

3. FALKLAND ISLANDS

FIFTEEN Ordinances received assent between May 22 and November 28.

Matrimonial Causes.—No. 1 amended the law relating to marriage and divorce and was amended by No. 12 in respect to one of the grounds of divorce, namely, exceptional hardship suffered by the petitioner or exceptional depravity on the part of the respondent. The grounds of divorce now include desertion for a period of at least three years and that the respondent is proved to the satisfaction of the court to be "incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition." The Ordinance also deals with the conditions for the nullity of marriage, the proceedings for the decree, presumption of death, judicial separation, alimony and the custody of children.

Children and Young Persons.—No. 2 provides for the prevention of cruelty and exposure to moral and physical danger to children and young persons under the age of sixteen. A person on conviction on indictment is punished by a fine not exceeding one hundred pounds or imprisonment for any term not exceeding two years, or on summary jurisdiction to a fine not exceeding twenty-five pounds or, alternatively, six months' imprisonment. A parent or other person legally liable to maintain a child shall be deemed to have neglected to do so in a manner likely to cause injury to his health if he has failed to provide clothing, food, medical aid or lodging, or being unable to do so has failed to take steps to procure it. In the case of infants under three years of age dying from suffocation, any person above the age of sixteen under the influence of drink, in bed with the infant, is deemed to have neglected the infant in a manner likly to have caused injury to its health. If the actual suffering or injury was obviated by the action of another person, the offence will nevertheless have been committed. Special provision is made for punishment where the person convicted was directly or indirectly interested in any sum of money accruing or payable in the event of the death of a child or young person.

Treaties.—No. 4 gives effect to a series of treaties with Esthonia, Finland, Greece, Hungary, Japan, Thailand, Turkey and Yugoslavia for the administration of estates by consular officers.

Trading with the Enemy.—No. 11 makes amendments in the Trading with the Enemy Ordinances, 1939 (*see* Rev. of Leg., 1939, p. 157) by making provision for the control of businesses and giving power to wind them up. It extends the powers of the custodians of enemy property.

1941

ONLY minor amendments were effected by the nine Ordinances passed during the year. No. 9 raised the age limit to fifty-one years for the Defence Force.

4. ST. HELENA

[*Contributed by* G. C. KITCHING, ESQ., *Government Secretary*.]

1939

THIRTEEN Ordinances were enacted during the year 1939, of which the following are of interest:—

Friendly Societies.—No. 1 repeals the Ordinance of 1839 and provides for the registration of Friendly Societies and the appointment of a Registrar with certain powers of supervision.

Lands Acquisition.—No. 2 provides for the acquisition of land for public purposes and for the appointment of a Land Valuation Board.

Public Health.—No. 9 repeals the Ordinance of 1889 and enlarges the powers of the Board of Health.

Lily Bulb Exportation.—No. 11 provides for the registration of Lily Bulb Growers and the appointment of a Lily Bulb Board to control the marketing and export of lily bulbs.

1940

TWELVE Ordinances were enacted during the year 1940, of which the following are of interest:—

Elementary Education.—No. 1 amends the Elementary Education Ordinance No. 11 of 1904 and provides for the alteration of school age, i.e., extension to fifteen years of age.

Ascension Island Defence Force.—No. 2 provides for the establishment of a Defence Force to be known as the Ascension Island Defence Force.

Poor Relief.—No. 4 repeals the Ordinance No. 3 of 1914, and to constitute a Board to be called the Poor Relief Board constituted and established for the purpose of exercising the powers which have been or may be conferred upon it under the provisions under this or any other Ordinance.

Agricultural and Livestock Improvement.—No. 5 provides for the preservation and protection of the soil and for the control and improvement of crop production and livestock and the marketing thereof.

Market.—No. 7 amends the Market Ordinance, 1895, and makes provision for the Poor Relief Board to act as the Committee for the Management of the Market.

Cinematograph.—No. 9 makes provisions for grant and conditions of licences for places of cinematograph entertainments.

Savings Bank.—No. 10 provides for the constitution and management of the Government Savings Bank.

Imports.—No. 12 provides for the prohibition or restriction of the importation of goods during an emergency.

1941

TWELVE Ordinances were enacted during the year 1941, of which the following are of interest:—

Armed Forces.—No. 2 makes provision for securing and controlling the enlistment of men for service in the armed forces of the Crown for the defence of the Colony.

Education.—No. 9 provides for the Amalgamation of Hussey Charity and Benevolent Society Schools with Government.

XII. WEST INDIES

1. THE BAHAMAS

FORTY-FOUR Ordinances were passed in 1940.

Administration of Estates.—C. 10 enables Consular officers to administer the estates of foreign nationals in the terms which have been adopted in other colonies.

Gasolene.—C. 30 imposes a tax on gasolene.

Air Bases.—An agreement between the U.S.A. and the Government of the Colony in respect to Air Bases is implemented by c. 34.

Immigrants.—The Immigrants Act is amended by c. 37 to provide the procedure where deportation is desirable.

1941

TWENTY-ONE Ordinances were passed in the year.

Pensions.—The pensions rights of officers employed in the public service undertaking military service are preserved by No. 4.

Juvenile Offenders.—The Juvenile Offenders Act of 1936 is amended by No. 13 to allow juvenile offenders apparently under the age of seventeen to be released on bail except when charged with homicide or other grave crime, or in the interest of such person to remove him from association with any undesirable person. Children without adequate guardianship may be committed to the care of an institution.

Public Holidays.—An amendment by No. 19 to the Public Holidays Act provides that when a public holiday falls on a Sunday the following day shall be observed and kept as a public holiday. On Sundays and holidays ice may be sold up to one o'clock or any article required for the burial of a dead body or in case of illness of any person or animal or in any other emergency.

Osteopathy.—The practise of Osteopathy is authorized by No. 20. A person may be defined to practise Osteopathy within the meaning of this Act "who for pecuniary gain or other valuable consideration diagnoses, treats, heals and cures or relieves or attempts or holds himself out as being able to diagnose, treat, heal, cure or relieve persons suffering from pain, injury, deformity or disease whether in mind or body, by methods taught in schools or colleges of Osteopathy and without the administration of drugs or any other similar substance."

2. BARBADOS

SIXTY-FOUR Acts received attention in 1940.

Sugar.—No. 55 of 1938 is repealed and re-enacted with amendments by No. 5, which covers the laws relating to the production and control of sugar and molasses.

Public Works.—In 1932 an Act was passed to amalgamate the Public Works Department created in 1891 and the Waterworks Department established in 1895. It has now been deemed expedient to separate them again, so the Public Works Department has its own constitution in No. 13 and the Waterworks Department in No. 14.

Business Names.—No. 17 provides for the registration of business names on the lines of English legislation.

Fruit and Vegetables.—The examination and certification of fruit and vegetables intended for export is regulated by No. 22 under the general supervision of the Director of Agriculture.

Cinematograph.—No. 60 provides for the censorship of cinematograph films.

Wireless Telegraphy.—Previous legislation, dating from 1925, on the subject of wireless telegraphy is repealed in No. 64, which, with the addition of amendments, now contains the law on the subject.

1941

FIFTY-FOUR Acts were passed in the year.

Package Tax.—The Package Tax Act of 1938 and the Amending Act of 1940 are repealed by No. 15, which levies a tax of sixpence upon every package of goods, wares and merchandise which shall be imported or brought into the island or taken out of bond for consumption in the island.

Estate and Succession Duties.—No. 49 is a comprehensive measure to make provision for the imposition of estate and succession duties. Duty is not payable on pensions granted to civil servants by the Government of British India or of any British Possession or Protectorate. Death duties may be remitted in case of persons killed in war.

Rates are graded up to £3 per cent. on estate valued above £20,000 and not exceeding £30,000, £7 per cent. between £100,000, and £125,000 and £10 per cent. above £250,000.

Dairies.—The Dairies Act of 1919 is repealed and replaced by No. 54, which covers the regulations of the keeping of cows, the condition of dairies and the supply of milk.

A large proportion of the Acts are local and personal in character.

3. JAMAICA

[*Contributed by* ARTHUR LEWEY, ESQ., K.C., *Attorney-General.*]

FIFTY-SIX Laws were passed.

Land Settlement Fund.—Law No. 34 deals with certain necessary financial arrangements for the furtherance of land settlement schemes in Jamaica. Provision is made for the establishment of a central fund to be known as the Land Settlement Fund. The proceeds of the sale of any land purchased for land settlement are to be paid into the Fund, together with all moneys received by the Commissioner of Lands in connection with land settlement schemes. The moneys in the Fund are to be used for purposes relating to the acquisition and development of further properties for land settlement, and the expenses arising therefrom.

Factories.—Law No. 43 is a most important measure and the first of its kind in Jamaica. It is designed to make provision for the registration and for the supervision of factories, and for the safety of workers employed therein. The Law provides for the compulsory registration of all factories in order to ensure compliance with the regulations which the Governor in Privy Council is empowered to make under the Law. Both existing and new factories are required to be registered. As regards the former, the Chief Factory Inspector must be satisfied that each factory has made adequate provision for the safety and health of the employees. In the case of new factories, there are more elaborate provisions whereby plans and other detailed information have to be supplied before the Chief Factory Inspector will grant the necessary permit for the erection of the buildings. Registration will be refused unless and until there has been compliance with the terms of the permit. The exercise of the wide powers given by the Law is safeguarded by a right of appeal to the Factories Appeal Board which is to be established under the provisions of Part II of the Law.

Recruiting of Workers.—Law No. 30 was enacted to give effect in Jamaica to the provisions of the International Convention relating to the recruitment of workers. This Law does not apply to the recruitment of workers for those foreign countries to which the Emigrants Protection Law (c. 327) has already been applied by Proclamation. This exception was considered necessary because of the agreement which had been concluded for the supply of local labour to Panama, since that agreement had been made under, and was expressly related to, the Emigrants Protection Law.

Trade Unions.—Law No. 36 amends certain provisions of the Trade Union Law (c. 296) with the object of giving greater powers of supervision over the accounts of Trade Unions. Experience has shown that these additional powers are most desirable for the protection of members of Trade Unions in Jamaica, where, it is to be remembered, the movement is still in its infancy. It is anticipated that it will be possible to arrange for the auditing of accounts to be carried out by the Auditor-General, in accordance with the recommendations of the West India Royal Commission.

Masters and Servants.—Law No. 27 abolishes certain statutory offences which were considered to be repugnant to the modern conception of the relationship of master and servant. These offences were created in Jamaica by the Masters and Servants Law, which dated back to 1842, and which prescribed imprisonment for matters which to-day are regarded rather as breaches of a contractual obligation, than as offences punishable by criminal penalties. Under the provisions of the Law questions relating to the recovery of money, and to disputes between masters and servants, are to be adjudicated upon as civil matters in the Courts of summary jurisdiction.

Petroleum.—Law No. 26 follows the main lines of the corresponding English legislation. It seeks to solve the difficult problems arising in connection with the true ownership of mineral oils, by vesting in the Crown the property in any petroleum that may be found in the island. The Government in Privy Council is empowered by the provisions of the law to make regulations, to grant, on behalf of His Majesty, licences to search for, bore and get petroleum, and, where necessary, to appoint Commissions of Enquiry to deal with applications made under the law. The law provides, subject to certain safeguards, for the compulsory grant of ancillary rights when these cannot be agreed upon or are unreasonably withheld. In such cases, if the public interest so requires, the Governor in Privy Council may order that ancillary rights be granted subject to conditions and to the payment of compensation.

Public Meetings.—Law No. 31 extends the operation of the Public Meetings Law, 1939 (Law 27 of 1939) until June 30, 1943. Certain amendments are made to the principal Law in regard to offences and the power to arrest without warrant, and a precise definition of the expression " public place " has been included. A Schedule has been added to the Law giving a list of the purposes in respect of which meetings, gatherings, assemblies and processions are to be exempted from the operation of the law.

Production of Telegrams.—Law No. 22 is similar in character to the legislation in force in England and in many of the Colonies with regard to the compulsory disclosure of telegrams to the authorities. From time to time situations arise which make it desirable, in the public interest, to require the production of telegrams in order that their contents may be scrutinzed. This law empowers the Governor to take the necessary action in such cases.

Undesirable Publications (Prohibition of Importation).—Law No. 33 was designed to give the necessary power to the Governor in Privy Council to prohibit the importation into Jamaica and its Dependencies of undesirable publications of all kinds.

Land Acquisition.—The existing Public Lands Acquisition Law (c. 367) is repealed by Law No. 38, which is designed to provide a more rapid acquisition procedure, together with definite standards for the assessment of compensation, while affording all reasonable safeguards to the rights of property owners. The law is intended to apply to the acquisition of land for every kind of public purpose, and not only for land settlement. It was, however, principally the delays under the old law in connection with land settlement schemes which prompted the demands made to Government for the enactment of more modern and practical legislation. Provision is made in Part VI of the law for the temporary occupation of land, for periods not exceeding three years. The compulsory powers given by the law in regard to such occupation could be usefully employed, if the necessity arose, in connection with the Food Production Campaign.

Licences on Trades and Business.—Law No. 24 makes the necessary provision for exempting from the payment of licence duty under the principal law (c. 198), organisations which carry on business for benevolent or public purposes and not for profit.

Income-tax.—Law 47 amends the Income-tax Law (c. 201) by the inclusion of a number of the English provisions designed to give increased power to the authorities in regard to the assessment and collection of tax, and the prevention of evasion.

Law 48 makes provision for the imposition of increased rates of income tax for the year of assessment 1940 by an addition of 66⅔ per centum to the existing rates.

Local Forces.—Law 56 amends the Local Forces Law (c. 162) so as to provide for the disembodiment or temporary release from " actual service " of officers and men who have been embodied for a period of emergency. These powers are to be exercised by the Senior Officer in Command of His Majesty's Forces in Jamaica, subject to the approval of the Governor.

1941

Seventy-nine Laws were passed in 1941.

Packages.—No. 2 imposes a tax on packages.

Nurses.—Provision is made for the registration of nurses by No. 13. A certificated nurse is defined to be any person who has completed a three-years' course of training as a nurse in a hospital approved by a Medical Examination Board to be appointed by the Governor, and who has passed the examination prescribed by such board, or any person who holds a certificate granted to her by any institution or examining board recognized by the Governor in Privy Council after and in consequence of her having passed through the course of study and examination in nursing prescribed in such institution or examining board.

Married Women.—By an amendment of the Married Women's Property Law No. 14 deals with the capacity of married women and their property, and abolishes the husband's liability for the wife's torts, ante-nuptial contracts, debts and obligations.

Labour.—The Governor in Privy Council is given authority by No. 18 to make provision for the protection against accidents of persons employed in loading and unloading ships. The employment of women is regulated by No. 33, which enacts its prohibition at night except in certain circumstances. There is power to inspect to ensure the effective operation of the law.

Poor Persons Legal Aid.—The Chief Justice, with the concurrence of a majority of the other Judges of the Supreme Court is authorized by No. 22 to make rules to facilitate proceedings by poor persons, including the assignment of counsel and solicitors.

Medical Evidence.—The certificated report of a medical practitioner by No. 28 may be accepted in a magistrate's court or at a coroner's inquest upon a sworn statement, without the attendance of the medical practitioner.

Savings Bank.—The existing law is repealed by No. 35, which now contains all the provisions relating to the Government Savings Bank.

Pensions.—No. 42 makes the necessary provision for war service to count as qualifying service for pension purposes. No. 44 provides for the payment of pensions to the dependents of officers who lose their lives while travelling to and from Jamaica during the present emergency and for the grant of increased pensions to officers permanently injured while so travelling.

Children.—Provision is made by No. 47 for licensing, controlling and regulating children's homes. No. 57 provides for taking the evidence of a child of tender years and introduces a new part into the law covering the employment of children and young persons.

Post Office.—Previous legislation is repealed and all the provisions relating to the establishment of the Post Office are now contained in No. 60.

Rent Restriction.—No. 62 is a law on the lines of English legislation to restrict the rents of certain dwelling houses.

Excess Profits.—A tax on excess profits is imposed by No. 65.

Excise.—An excise duty on corn meal manufactured in the Colony is imposed by No. 69. The whole Law on the subject of excise now contained in a consolidating law No. 73.

Air Base.—The agreement with the U.S.A. leasing territory in the island for Air Bases is confirmed by No. 76. The object of No. 77 is to protect from disclosure any documents or information in the possession of the United States authorities relating to the bases in Jamaica.

4. LEEWARD ISLANDS

Two Ordinances were passed in 1940.

Land Acquisition.—No. 1 empowers the Government of any Presidency of the Colony to acquire lands in such Presidency for national purposes.

1941

Seventeen Acts were passed in 1941.

Labour.—The Recruiting of Workers Act No. 4 puts into operation the provisions of the International Labour Conference 1936 on the subject.

Infanticide.—No. 5 enacts the English law on the subject of Infanticide.

Seditious Publications.—The Seditions and Undesirable Publications Act, 1938, is strengthened by No. 10 on the subject of offences in respect of sedition and prohibited publications.

Administration of Estates.—The Ordinance dealing with the Administration of Estates of Foreign nationals as enacted in other Colonies is No. 11.

Legislative Council.—Provision is made for the payment of expenses and allowances to unofficial members of the Executive Council by No. 17. They are to be apportioned in like manner as the expenses of such establishments as are common to all the Leeward Islands.

(i) Antigua

Six Ordinances were passed.

Sugar.—An excise duty is imposed by No. 3 on sugar known as "washed sugar."

1941

Fifteen Acts were passed in 1941.

Export Duty.—An export duty on lint cotton and sugar is imposed by No. 1.

Package Tax.—The object of No. 3 is to impose the Package Tax on a long schedule of goods imported into the Presidency. Among the exemptions are poppies for Earl Haig's Fund.

Forests.—A new ordinance, No. 7, in the place of the Forestry Ordinance, 1939, is enacted to make provision for the protection and management of forests under the direction of a Forestry Board.

Customs.—By No. 8 a surcharge is added to the custom's duty on certain articles analogous to the surtax in relation to income tax.

Cotton.—The Cotton Traffic Ordinance, 1906, and amending ordinances of 1937 and 1940 are repealed by No. 10, which now contains the law regulating the local traffic in cotton. It requires the grower to be registered and the vendor to be licensed under the direction of the Cotton Protection Officer.

Shop Hours.—The Shops Regulation Ordinance, 1933, is repealed by No. 11, which contains particulars of the hours during which shops and stores may be open and assistants employed therein.

Plant Diseases.—The Plant Protection Ordinance, 1933, is repealed by No. 14, which now provides for the prevention, eradication and control of diseases and pests affecting plants.

(ii) Dominica

Twenty-five Ordinances were passed during the year.

Administration of Estates.—No. 1 is the Ordinance of which the terms have been noted elsewhere.

Trade Disputes.—No. 3 provides for the establishment of an arbitration tribunal and a board of enquiry to deal with industrial disputes in the terms which have been adopted in other Colonies.

Carriage by Sea.—The Passengers Ordinances, 1904, 1927, and 1929, are repealed by No. 4, which now regulates Carriage of Passengers by Sea.

Seditious Publications.—Previous legislation is repealed by No. 8, which now contains the whole law relating to sedition and the importation of undesirable publications as generally adopted in other Colonies.

Licences.—Another consolidating Ordinance is No. 14, which repeals six Ordinances from 1922 to 1933 and now imposes the Licence duties in operation in the Colony.

Interpretation of Statutes.—No. 15 is an Ordinance for shortening the language used in Ordinances and other legal and official documents and repeals previous laws on the subject.

Trading with the Enemy.—The subject of Trading with the Enemy is covered by No. 16.

Limes.—No. 17 imposes a levy on limes and lime products for the purpose of furthering the interest of the industry. No. 18 incorporates the Dominica Limes Association.

Telegraphs.—Four Ordinances are repealed by No. 19, which contains the law relating to the establishment and maintenance of Government telegraph, telephone, electric lighting and power machinery and apparatus in the Colony.

Trade Unions.—The Acts of 1931 and 1939 are repealed by No. 20, which, as amended by 23, now contains the law regulating Trade Unions.

Police.—Previous legislation dealing with the Police is repealed by No. 25, which now contains the law relating to the establishment and discipline of the force.

[It is hoped to publish the review for 1941 in the next issue.]

(iii) MONTSERRAT

FIVE Ordinances were passed.

1941

TWELVE Ordinances, of which the majority effected minor amendments, were passed in 1941.

Protection of Plants.—A new Ordinance (No. 11) replaces the existing Ordinance of 1897 to provide for the prevention, eradication and control of diseases and pests affecting plants.

Shop Hours.—The hours of opening of shops and stores is regulated by No. 12, which includes a provision forbidding the employment of shop assistants for more than forty-five hours, exclusive of the time allowed for meals, in any week. There is a proviso allowing an extra five hours for stock-taking in any one week and another which entirely suspends the operation of the section dealing with the hours of shop assistants from December 15 to 24, both dates inclusive.

(iv) ST. CHRISTOPHER AND NEVIS

SIX Ordinances were passed.

Sugar.—No. 4 provides for the control of the supply of sugar cane for manufacture into sugar.

(v) VIRGIN ISLANDS

ELEVEN Ordinances were passed.

Sugar.—No. 11 imposes an excise duty on sugar.

5. WINDWARD ISLANDS

(i) GRENADA

SEVENTEEN Ordinances were passed in 1940.

Trade Unions.—By an amendment, No. 8 of the Trade Unions Ordinances, a fine not exceeding £20 or imprisonment not exceeding three months is imposed for intimidation or annoyance by violence or otherwise.

Police.—The existing Police Ordinance is repealed by No. 11, which also covers the law relating to Liability to Military Service and contains the existing provision dealing with the discipline and conditions of service of the force.

Administration of Estates.—No. 13 is the Ordinance of which the particulars have been noted in the summaries of other Colonies.

Labour.—The Minimum Wage Ordinance is repealed by No. 16, which authorizes the creation of a Department of Labour. Fixing of minimum wages, stabilizing of hours of employment and other similar duties are included in the work of the Department.

1941

FIFTEEN Ordinances were passed in 1941.

Protection of Plants.—Previous legislation contained in four Ordinances is repealed by No. 2, which now contains the law for prevention, eradication and control of diseases and pests affecting plants.

Labour.—The Ordinance of 1940 is amended by the addition of five sections dealing with the enforcement of the payment of a minimum wage. Consequent amendments of the principal Ordinance renumber ss. 5 and 6 as ss. 10 and 11.

Companies.—By amending the Companies Ordinance No. 12 puts restriction on the registration of Companies by certain names and upon the change of names.

Customs.—The Governor in Council by No. 15 may make an order remitting partially or wholly the import duty payable on motor spirit, oil, tyres and other articles imported for use in the conduct of any public passenger transportation service which is defined to be " any recognized service for the conveyance of passengers operated by a corporation, company or private individual which in the opinion of the Governor in Council serve as a public utility for any section of the community."

(ii) SAINT LUCIA

[*Contributed by* J. E. M. SALMON, ESQ., O.B.E.]

TWENTY-TWO Ordinances were passed in the session.

Agriculture.—No. 2 amends the Banana Ordinance No. 1 of 1934 as amended by No. 16 of 1934. It provides for the allocation of profits. No. 3 regulates and controls the cotton industry. No. 7 amends the Lime Products Cess Ordinance, No. 8 of 1937, by substituting a new schedule of cess on lime products. No. 16 provides for the granting of loans to peasant owners and for their repayment and priority. No. 6 incorporates the St. Lucia Limes Association.

Consular Officers.—No. 1, the Administration of Estates by Consular Officers Ordinance, gives effect in the Colony to the provisions of certain Treaties of Commerce and Navigation dealing with the administration of estates by consular officers.

Labour.—No. 15 provides for the establishment of an Arbitration Tribunal and a Board of Inquiry in connection with trade disputes, and makes provision for the settlement of such disputes and for inquiry into economic and industrial conditions in the Colony. No. 14 amends the Trade Unions Ordinance, No. 26 of 1933, and defines " trade union."

Lands Acquisition.—No. 21, the Lands Acquisition (United States of America Naval and Air Bases) Ordinance, empowers the Governor to acquire land for the purpose of securing leases of sites to the United States Government for naval and air bases.

Pensions.—No. 4 amends the Head Teachers' Pensions Ordinance, No. 21 of 1933, by providing for a gratuity to a woman head teacher marrying after completing not less than five years' service in a pensionable office. No. 13 amends the Pensions Ordinance, No. 93 of the 1916 Revision, by empowering the grant of a pension to dependants of a public officer killed on duty.

Police.—No. 17, the Police Ordinance, repeals and makes other provision in lieu of No. 77 of the 1916 Revision, as amended, except that Part I of No. 97, 1916 Revision (relating to Rural Constables), is to remain in force until otherwise provided for.

Taxation.—No. 8 amends the Customs Duties Ordinance, No. 11 of 1921.

It provides when the Imperial Purchase Tax under 3 and 4 Geo. VI, c. 48, is not to be taken into account for *ad valorem* duty locally, and for the recovery and refund of duty, and new substituted schedules of duties. Taxation was also increased by the following: No. 9, which amends No. 12 of 1939, Export Duties; No. 10, which amends No. 38, 1916 Revision, Harbour of Castries; No. 20, Import and Export (Fees) Licences; No. 11, which amends No. 123, 1916 Revision, Stamp Duty; No. 22, War Tax, which has, however, been repealed by No. 26 of 1941, Income Tax (Amendment), which increases the Income Tax rates for individuals and companies.

1941

THREE Ordinances were passed in 1941.

Sugar.—An excise duty is imposed by No. 1 on sugar which is defined to be unrefined centrifugal sugar.

Recruiting of Workers.—The Ordinance of 1939 is amended by No. 2 as not to apply to workers employed within the Colony unless such recruiting is done by professional recruiting agents.

(iii) SAINT VINCENT

LEGISLATION enacted during 1940 included the undermentioned Ordinances of importance:—

Recruiting of Workers.—No. 3 gives effect to the provisions of an International Labour Convention concerning the regulation of certain special systems of recruiting workers. The opportunity has been taken to repeal certain existing enactments relating to emigration which have become redundant.

Registration of Trade Marks.—No. 5 provides for the registration of United Kingdom Trade Marks in St. Vincent. Subject to the provisions of the Ordinance, a registered proprietor shall have in the Colony such privileges and rights in the use of the trade mark in respect of the goods entered in the Register as *mutatis mutandis* would be conferred on him by the law for the time being in force in the United Kingdom.

Administration of Estates.—No. 7 gives effect to the provisions of certain Treaties of Commerce and Navigation entered into by the United Kingdom with certain countries mentioned in the Schedule to the Ordinance. These treaties have been extended to this Colony according to the uniform Ordinance.

Employment of Children.—No. 8 prohibits the employment of children under fourteen years of age subject to the following exemptions:—

(*a*) Work done by any child in accordance with the provisions of the Employment of Women, Young Persons and Children Ordinance, 1935;

(*b*) Service rendered by any child to his parent or guardian in light agricultural or horticultural work on the family land or garden outside of school hours; and

(*c*) Participation of a child without fee or reward in an entertainment the net proceeds of which are devoted to any charitable or educational purpose or to any purpose other than the private profit of the promoters.

Trade Unions.—No. 11 shows clearly the form of association which must be registered as trade unions. This has been done by altering the definition of "Statutory objects" contained in s. 1 of the principal Ordinance. The Ordinance also clarifies the position with regard to the provision of benefits to members of trade unions.

Trade Disputes.—No. 14 provides means for the settlement of trade disputes. Provision has also been made for the appointment of Boards of Inquiry to inquire into the causes and circumstances of existing or apprehended disputes.

Factories.—No. 7 provides for the safeguarding against accident of workers employed in or about factories or machinery. S. 3 of the Ordinance provides for the appointment of a Factories Board who would exercise the supervision of all factories and machinery in this Colony.

1941

TWENTY-FIVE Ordinances were passed in the year.

Administration of Estates.—The object of No. 3 is to facilitate the administration of small estates under the value of £50.

Criminal Procedure.—Amendments are made by No. 4 in the Criminal Offences (Magistrates Procedure) Ordinance so as to protect the accused in any admission of guilt or consent that he does not wish evidence to be given against him at the trial.

Supreme Court.—The previous Ordinance dealing with the constitution and procedure of the Supreme Court are repealed by No. 5, which now sets forth its jurisdiction, its officers and the rules relating to the qualifications of practitioners who may appear before it. A separate section deals with procedure in criminal cases.

Pensions.—The Pensions Ordinance is extended by No. 6 so as to meet war conditions by covering civil servants injured or killed on active service.

Corporal Punishment.—The procedure for the administration of corporal punishment is laid down in No. 7.

Building Societies.—The object of No. 9 is to provide for the incorporation and regulation of building societies.

Diseases of Plants.—The Plant Protection Ordinance, 1938, is repealed by No. 10, which now contains the law to provide for the prevention, eradication and control of diseases and pests affecting plants.

Lotteries.—Public Lotteries for the purpose of raising revenue are authorized by No. 12, which lays down the requirements to regulate and control them.

Seditious Publications.—Amendments are made by No. 17 in the Sedition and Undesirable Publications Ordinance, 1939, on lines similar to those adopted in other Colonies.

6. TRINIDAD AND TOBAGO

TWENTY-NINE Ordinances were submitted in the year. Two were reserved and one was spent by the end of the year.

Administration of Estates.—By an amendment of the Wills and Probate Ordinance No. 7 enacts the provisions of the uniform Ordinance relating to the administration of estates of certain foreign nationals.

Protection of Plants.—Previous legislation is repealed by No. 8, which now provides for the prevention, eradication and control of diseases and pests infesting plants.

1941

THIRTY-EIGHT Ordinances were passed in 1941.

Cocoa.—No. 5 makes a number of amendments in the Ordinance dealing with the cocoa industry, especially as regards the cess payable on local grown and exported cocoa.

Protection of Animals and Birds.—No. 12 extends the provision of the Ordinance for the protection of wild animals and birds, especially as regards hunting them and the areas covered as reserves.

Rent Restriction.—The right to recover possession of premises during the present emergency and for one year after is dealt with by No. 13, which also restricts rents on the lines of English legislation.

Acquisition of Land.—The Governor in Council is authorized by No. 11 to acquire land for public purposes in the usual terms.

Legal Profession.—Right of audience in the Courts of the Colony is given to United States counsel by No. 15, in which a member of the United States Forces is a party to a civil or criminal proceeding.

Corporal Punishment.—Corporal punishment of offenders above the age of sixteen years is abolished by No. 20, and its imposition is regulated on offenders under that age.

Pilotage.—Amendments are made by No. 24 in the Pilotage Ordinance so as to provide a new constitution for the Pilotage authority and in respect to its expenses.

Cinematograph.—The Cinematograph Ordinance is amended by No. 32 as regards the provisions relating to British quotas.

Housing.—The law relating to slum clearance and housing is extended by No. 34, especially by enlarging the powers of the Commission in formulating and carrying out schemes of reconstruction.

Air Bases.—By No. 37 the agreement of March 27, 1941, is complemented between the U.S. Government and the Government of the United Kingdom relating to bases leased in the Colony.

XIII. MEDITERRANEAN

1. GIBRALTAR

[*Contributed by* C. MANSEL REECE, ESQ., *Attorney-General.*]

EIGHTEEN Ordinances were passed.

The principal legislative enactments during the year 1940 are as under:—

Administration of Estates.—The purpose of No. 1 is to make the necessary legal provision to fulfil the obligations contained in the Commercial Treaties with certain foreign countries in regard to the administration of the estates of deceased nationals of either party to the respective treaties dying in the territory of the other party.

Trades Tax.—No. 4 has been enacted to impose certain annual taxes on shops, hotels, banks and all other businesses in Gibraltar during the present emergency.

Courts (Emergency Powers).—No. 6 has been enacted to give effect to the provisions which are set out in the Courts (Emergency Powers) Act, 1939 (2 and 3 Geo. VI, c. 67), as amended by the Possession of Mortgaged Land (Emergency Provisions) Act, 1939 (2 and 3 Geo. VI, c. 108).

Relief from Rates.—No. 7 has been enacted to give relief from rates in respect of works which afford protection in the event of hostile attack from land, sea or the air or which provide for the treatment of persons suffering from the effects of such attack.

Pensions.—No. 10 has been enacted in order to prescribe the pension rights of officers released for military service.

Military Service.—No. 11 has been enacted to provide the Governor with powers to call upon the citizens of Gibraltar to render military service as and when such service is felt to be needed.

Liability for War Damage.—No. 13 has been enacted to modify certain rights and liabilities with respect to goods lost or damaged by war.

Stamp Duties.—No. 14 exempts from all stamp duties all instruments in connection with the acquisition of lands by the Imperial Government.

Grand Juries.—No. 15 is based on the Grand Juries (Suspension) Act, 1917, (7 Geo. V, c. 4), and has been enacted to get over the difficulty of summoning a grand jury caused by the evacuation of grand jurors from Gibraltar in the general evacuation scheme.

City Council.—No. 18 has been enacted to enable the Governor to give effect to new arrangements for the discharge of the duties which have been hitherto performed by the City Council.

1941

IN 1941 a supplement was published to the Laws of Gibraltar containing the legislation enacted during the years 1936 to 1940 remaining in force on December

31, 1940. It was prepared by the Attorney-General, Mr. C. Mansel Reece, K.C., under the authority of the Ordinance passed in 1936 dealing with the revision of the Laws.

During the year 1941 twenty Ordinances were enacted and were mainly minor amendments.

Compensation.—Provision was made by No. 7 for the payment of compensation in respect to any action taken on behalf of the Government in the exercise of its Emergency Powers. The Ordinance sets up tribunals to determine disputes in default of agreement.

Price Control.—Prices are controlled by No. 9, which is put into operation by a Price Control Committee. It covers services as well as supplies. It was amended by No. 10 to correct a typographical error.

Mortgages.—The rights of mortgagees to obtain possession of mortgaged land are restricted by No. 12. Complementary amendments are made by No. 13 in the Courts Emergency Powers Ordinance.

Public Health.—Public Health Ordinance is amended by No. 17 by the addition of new sections dealing on the lines of English legislation with the cleansing of filthy or verminous premises, articles, persons and their clothing.

Emergency Powers.—Relief is given by No. 20 in respect of Rent and Rates to persons affected by the conditions of war and the powers of the Courts are extended so as to give them the necessary jurisdiction to make the orders.

2. CYPRUS

[*Contributed by the* Hon. S. W. P. Foster Sutton, K.C., *Attorney-General.*]

During the year 1940 thirty-one laws were enacted, some of the more important of which were the following:—

Customs (Export Duty).—Law No. 2 imposes on certain goods, upon their exportation from the Colony, an export duty of Customs at the rates set forth in the Schedule to the Law. It gives power to the Governor in Council to add to, or delete from, the Schedule any goods and to fix the rate of export duty in respect of such goods.

Documents (Special Duty).—Law No. 7 imposes additional duty on certain documents as a special war tax.

Administration of Estates by Consular Officers.—Law No. 9 gives effect to such of the provisions of the Treaties set out in the Schedule to the Law as relate to the administration by Consular Officers of the estates of foreigners who, being the subjects or citizens of any of the States in the Schedule, die within the Colony or die outside the Colony leaving property within the Colony. It gives power to the Governor to vary the Schedule in certain circumstances.

Agricultural Debtors Relief.—Law No. 12 makes provision for the relief of indebtedness of agricultural debtors in the Colony. Relief can be sought under the law by any person who owes debts and who combines the following requirements, that is to say,—

(*a*) exercises agriculture as his primary means of livelihood, and
(*b*) cultivates land by himself or by members of his family or by hired labourers, and
(*c*) is the owner of immovable property the assessed value of which as shown in the books of the Land Registry Office does not in the aggregate exceed the sum of £1,500.

Relief can be granted to any such person in respect of his liabilities whether secured or unsecured and whether payable presently or in future, except such liabilities as are payable or may become payable by him in the form of certain taxes, duties, penalties, assessments, rates and charges.

The Governor is empowered to establish a Board, designated the Debt Settlement Board, which will exercise jurisdiction throughout the Colony and for that purpose it will hold sittings at such towns or villages as the Chairman of the Board may from time to time direct.

The Board has power, *inter alia*,—

(*a*) to decide whether a debt exists or whether the transaction was harsh or unconscionable, and in either case to determine its amount ;
(*b*) to dismiss an application in certain cases ;
(*c*) to exercise all such powers connected with the summoning and examining of parties to an application and of witnesses and with the production of documents as are conferred upon a Court of Law ;
(*d*) to call upon the debtor and each creditor to explain his case regarding each debt and to use its best endeavours to induce them to arrive at an amicable settlement ;
(*e*) to proceed to effect a compulsory settlement of any debt if no amicable settlement can be arrived at ; and
(*f*) to reduce any debt by not more than one-third in cases where a compulsory settlement is made.

The law provides that the Board in approving an amicable settlement or in effecting a compulsory settlement shall have regard to the capacity of the debtor to pay the total amount of his debts by annual equal instalments, comprising capital and interest at a uniform rate not exceeding 7% per annum but not less than 5% per annum as may be fixed by the Board, spread over a period not exceeding 15 years after making such provision as the Board may consider necessary—

(*a*) for the maintenance of the debtor and his family ; and
(*b*) for the payment by the debtor of the expenses, if any, required for the cultivation of his land and for harvesting ; and
(*c*) for the payment by the debtor of his liabilities, if any, which are exempted from the operation of the law.

The decision, order or award of the Board cannot be questioned in any action or other proceedings in any Court of Law and no appeal lies therefrom to any Court of Law. The Board, however, is given power to review its own decisions, orders or awards in certain circumstances.

Penalties are prescribed against any person who—

(*a*) intentionally makes a false statement in any proceedings before the Board ; or
(*b*) intentionally produces before the Board any false copy or translation of a document ; or
(*c*) falsely personates another person and in such assumed character produces any document or makes any admission or statement or does any other act in any proceedings under the law; or
(*d*) abets any of the above acts.

Cyprus Volunteer Force.—Law No. 16 enables the Governor to form a local defence force which is to be named " The Cyprus Volunteer Force." The Force is placed under the command of the Officer Commanding His Majesty's Forces in Cyprus, and it will be required to assist the Regular Forces in the Colony and he Cyprus Police Force in all measures required for resisting invasion or ensuring nternal security.

Summer Time.—Law No. 18 enables the Governor, during such period in each year as he may think fit, to fix, by order, the time, for legal and general purposes in the Colony, three hours in advance of Greenwich Mean Time.

Compensation (Defence).—Law No. 24 provides for compensation in respect of action taken on behalf of His Majesty or the Government of the Colony in the xercise of emergency powers, and for purposes connected therewith.

Pensions (War Service).—Law No. 25 prescribes the pension rights of officers who have been released from the public service of the Colony for military service.

Subject to certain conditions, it provides that an officer who has been released for service with His Majesty's Forces shall—

(*a*) during the period of such service, be deemed, for the purpose of his pension and gratuity, to have been on leave on full salary ;

(*b*) during any period between his leaving the public service for the purpose of serving with His Majesty's Forces and the date of his commencing military service, be deemed to be on leave without pay, not granted on grounds of public policy ; and during any period between the termination of his military service and the date of his re-entering the public service, be deemed to be on leave as aforesaid.

Electricity.—Law No. 26 regulates the generation, transmission, transformation, distribution, sale, supply and use of electrical energy throughout the Colony for lighting and other purposes. It empowers the Governor to grant an order authorizing any company, body or person to supply or generate electricity for any public or private purposes within any area to be specified in the order and any municipal corporation to supply electricity for a like purpose within the municipal limits. Such order may confer upon the undertakers the right to acquire land and wayleaves, to construct canals, to divert rivers, to open up streets and such other rights which may be necessary to give effect to the purposes of such order, and provision is made for the payment of compensation by the undertakers where damage is caused by reason or in consequence of the exercise of such rights.

Expropriation of any property, land, building or easement, which is required by the undertakers for exercising the rights conferred, or fulfilling the obligations imposed, on them by the order and which cannot be purchased by mutual agreement, may be made by the Governor in accordance with the provisions of the law relating to the acquisition of land for public purposes.

The Governor is empowered to exempt from the operation of certain provisions of the law any municipality, company, body or person who is, at the commencement of the law, engaged in the generation, etc., of energy under or by virtue of any contract or agreement entered into by such municipality, company, body or person with any third part.

Immovable Property (Restriction of Sales).—Law No. 29 enables the Principal Land Registry Officer to fix the minimum price at which immovable property may be sold in execution under certain laws. Its object is to ensure that immovable property situate within the rural districts should not be sold in execution below a fixed reserve price.

3. MALTA

It is hoped that it may be possible in due course to print a survey of the legislation enacted during the island's heroic defence.

XIV. MIDDLE EAST

1. PALESTINE

[*Contributed by* Ralph Windham, Esq., M.A., LL.B., *Legal Draftsman.*]

Forty-five Ordinances were enacted in Palestine in 1940, of which a larger number than usual, namely, Nos. 2, 31, 34, 37, 40 and 42, are long consolidating Ordinances incorporating numerous amendments. The following Ordinances were the more important:—

Citrus Industry.—No. 37 provides for the setting up of a Citrus Control Board to exercise general control over the citrus industry, which has suffered heavily as a result of the war and the virtual closing of the normal markets and of the export route via the Mediterranean. It provides in particular for control over the areas under citrus cultivation, the advertisement of citrus fruit, the packing of fruit intended for export, the inspection of such fruit, and its shipment abroad. It is modelled on other Colonial legislation. It repeals c. 17 and 62, which had provided for control of the citrus industry to a more limited extent.

No. 19 encourages loans to citrus growers during the lean war period by providing that Government guaranteed loans on the security of any citrus crop of the year 1940-41 shall have priority over any other existing or future charge on the crop.

Compensation (Defence).—No. 18 provides for the assessment and award of compensation for action taken or property requisitioned in the exercise of Defence powers, and follows model legislation which has been enacted in the United Kingdom (2 and 3 Geo. VI, c. 75) and throughout the Colonial Empire.

Courts.—No. 31 consolidates, with certain amendments, none of which are fundamental, the law regulating the constitution and jurisdiction of the courts in Palestine (other than magistrates' courts) hitherto contained in c. 28, which had itself been subjected to considerable amendment, and in Nos. 27 and 47 of 1936.

Landlords and Tenants.—No. 11 of 1934, which was an Ordinance of annual duration and was extended from year to year as in the case of the corresponding United Kingdom rent restrictions legislation, provided restrictions on increases of rent of dwelling-houses and on ejectment therefrom. It was, however, only applicable to municipal areas, and then only to such as desired it. Owing to enemy air-raids in Palestine and the threat of them, particularly in Haifa and Tel Aviv, very many persons left these towns for safer parts of the country (Jerusalem in particular), where No. 11 of 1934 did not apply, and profiteering in the rent of dwelling-houses in these "safety zones" resulted. No. 44 was accordingly enacted to put a stop to the profiteering. It applies throughout Palestine, and provides for a "standard rent" for dwelling-houses, which may not be increased (or decreased) save within certain limits and in special circumstances by leave of the court or of a Rent Tribunal, the latter being further empowered to fix the rent for houses not let on April 1, 1940. It re-enacts the provisions of No. 11 of 1934 with regard to restriction on ejectment; meanwhile that Ordinance has been allowed to expire.

Mortgages.—No. 7 confers further benefits upon approved banks and other companies primarily engaged in the making of long-term agricultural mortgage loans, to whom certain privileges had already been granted by No. 9 of 1938. It provides that if the mortgagor leases the mortgaged property and fails to pay his interest the company, upon an order of the court, may receive the rent, and it penalizes a lessee who knowingly pays to the mortgagor, or a mortgagor who knowingly retains, rents payable to the company under such an order. If the land so leased is a holding to which the Cultivators (Protection) Ordinance (c. 40) applies, the company may increase the rent and exercise all the other powers of a landlord under that Ordinance.

Municipal Corporations.—No. 3 effects a number of amendments to No. 1 of 1934, of which the more substantial are the following: (i) Under s. 106 if a new building was completed and occupied shortly after the preparation of the annual assessment list it escaped payment of rates until it was included in the following year's list, with the result that it enjoyed free municipal services for nearly a year; s. 106 has accordingly been amended to follow the English municipal practice, whereby a new building may be assessed upon occupation at any time during the year and becomes rateable forthwith. (ii) The procedure under ss. 115, 116 and 117 for recovery of rates from defaulting ratepayers had proved inadequate, cumbersome and frequently ineffective, and in any case entailed delays in recovery which often ran into months; a serious fall in municipal revenues resulted; these sections have accordingly been repealed and s. 115 redrafted so as to provide more efficient and speedy machinery for the recovery of rates by distraint, similar to that prescribed for the recovery of Government taxes under c. 137. (iii) The second and third schedules, under which the payment of rates (or urban property tax) up to a prescribed minimum is one of the necessary qualifications for municipal enfranchisement, have been amended to provide that an occupier of property shall not be disfranchised by reason of the fact that such rates (or tax) have been paid not by him but by the owner, but that in such a case both occupier and owner will be qualified ; the municipal franchise has thus been extended and established upon a broader basis.

Prisons.—No. 2 repeals c. 117 and re-enacts the law relating to prisons in consolidated form in conformity with recent Colonial legislation, in particular No. 37 of 1930 of Kenya as subsequently amended. A number of matters hitherto dealt with under rules, *e.g.*, offences against prison discipline, treatment of prisoners of unsound mind and the release and discharge of prisoners, have been incorporated in the Ordinance.

Public Health.—No. 40 repeals, and re-enacts with extensive amendments and additions, the public health legislation of Palestine hitherto contained in c. 121. It amplifies such of the legislation as has been proved by experience to be inadequate and modernizes, in the light of more recent knowledge and experience, certain provisions of the existing legislation, in particular the provisions as to the notification and registration of births and deaths, the prevention and control of infectious diseases, and the improvement of sanitation. The new provisions have in the main been based on corresponding provisions in the Public Health Act, 1875, the Public Health (Scotland) Act, 1897, and No. 16 of 1895 of Cyprus.

Time Determination.—No. 15 introduces " summer time " into Palestine by providing that, for a specified period each year, the time for legal and general purposes shall be three hours in advance of Greenwich Mean Time, and not two as it had been hitherto under Eastern European time. Since its introduction on June 1, 1940, this " summer time " has been observed in Palestine throughout the year, winter and summer, with beneficial results.

Trans-Jordan Frontier Force.—No. 34 repeals c. 145, under which the Force was hitherto constituted and regulated, and substitutes legislation which is considerably more comprehensive and is modelled upon the King's African Rifles Ordinance, No. 48 of 1932 of Kenya, supplemented by certain provisions taken from the Army Act. Nos. 35 and 36 are ancillary to No. 35, and provide for the constitution and regulation of a Reserve of Officers and a Reserve of Other Ranks, respectively, for the Force.

Urban Property Tax.—No. 42 repeals c. 147, which sets out the law relating to urban property tax, and re-enacts it with amendments. The amendments are numerous and miscellaneous, but none of them is fundamental.

2. TRANS-JORDAN

[*Contributed by* A. L. Gardiner, Esq., *Judicial Adviser.*]

1939

Twenty-five laws were enacted in Trans-Jordan in 1939, of which eighteen amended existing legislation. Twenty-one of these laws, including the Budget, were of purely local importance. The remaining four were as follows:—

Geneva Conventions.—No. 6 gave effect to the International Conventions for the amelioration of the condition of the wounded and sick in armies in the field.

State Lands.—No. 7 gave power to the Council of Ministers to make grants of State lands and to make regulations governing such grants.

Constitution.—No. 19 constituted a Council of Ministers responsible to His Highness the Amir and charged with the Government of Trans-Jordan.

No. 21 adjusted existing legislation to the changes effected by the amendment of the Organic Law.

By Proclamation dated August 29, 1939, the Defence Law of 1935 was put into operation, and numerous Defence Regulations and Orders were made under this law.

1940

FORTY-EIGHT Laws were enacted in Trans-Jordan in 1940, of which twenty-nine amended existing legislation, and thirteen were financial. Three of the amending and two of the new laws are of general interest, and are as follows:—

The Organic Law (Amendment) Law.—No. 15 made better provision for the meeting, adjournment and dissolution of the Legislative Council.

The Oil Mining Law.—No. 18, which removed oil from the General Mining Law, followed exactly the provisions of recent legislation regarding oil mining in the Crown Colonies.

The Organic Law (Amendment) Law.—No. 35 regulated the succession to the throne of Trans-Jordan. The Original Law enacted that this matter was to be regulated later by a Special Law, but it was considered more convenient to deal with the same in an amendment to the Organic Law itself. Further provision was also made for a Regent or Council of Regency to act during the minority, incapacity or absence of the Amir.

The Foreign Corporations Immovable Property (Amendment) Law.—No. 36 enabled a foreign charitable or religious body to acquire and own immovable property outside a town or village. The law amended had only permitted this within a town or village.

The Arab Legion Military Service Law.—No. 48 gives power to the Amir in time of war or other emergency to employ the Arab Legion, which is the police force of Trans-Jordan, or any part thereof, for military purposes within or without Trans-Jordan ; and gives power to issue regulations governing the Legion, or a part thereof, when so employed, in supersession of the provisions of the ordinary law.

The Diwan Khas for the interpretation of laws decided two cases, both merely of local importance.

1941

TWENTY-SEVEN laws were enacted in Trans-Jordan, of which seventeen amended existing legislation, and six were financial. The following are of general interest:—

Pensions.—No. 3, together with amending laws Nos. 11 and 14, effected a much needed reform by consolidating the mass of Turkish and subsequent legislation with regard to the pensions of civil officials, and effecting certain amendments thereto. At the same time the old Turkish Discharge Pay was abolished. It was not found possible to apply the new law to the Arab Legion, which is the police force, but it is intended to effect similar reforms with regard to pensions of the Arab Legion at an early date.

Succession.—In accordance with Law No. 22 of 1938 Non-Moslem Religious Communities in Trans-Jordan have the right to set up Community Councils to deal with matters of personal status including succession, the law applicable being that of the Community, the Civil Courts being given jurisdiction in the case of persons who had no Community Council. The application of the law of the Community with regard to succession was found to cause inconvenience, and at the request of all Communities No. 8 applies to successions of all Non-Moslem Trans-Jordanians the Ottoman Law of 3 Rabi al Akhir, 1331.

With regard to foreigners jurisdiction is given to the Civil Courts, the law of their country being applicable in the case of movables, but the case may be remitted to the Community Council in the case of a foreigner, *e.g.*, a Palestinian

Arab, whose customs are similar to those of Trans-Jordanians.

The law also regulates the procedure of the Civil Courts with regard to succession.

International Postal Conventions.—No. 13 gave power to the Government to apply the provisions of any International Postal Convention which might have been agreed to by the Government.

Landlord and Tenant.—No. 23 follows the lines of similar legislation in Palestine.

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